

LEGISLATIVE HISTORY
TITLES II, XVI AND XVIII
OF THE
SOCIAL SECURITY ACT

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Legislative History of Titles

II, XVI, and XVIII

of the Social Security Act

Volume XVII

94th Congress

Compiled by the

Individual Rights and Responsibilities Branch

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PREFACE

This legislative history has been prepared to provide a convenient reference source for studies of the development of the social security benefit provisions of the Social Security Act.

The legislative history begins with the Social Security Act, as enacted on August 14, 1935, and includes every subsequent enactment affecting, or adding to, the social security benefit provisions administered by the Social Security Administration. In addition, the official reports of the House of Representatives and the Senate, issued with respect to the Social Security Act and each of the subsequent amending acts, as well as certain other House and Senate documents (e.g., analysis of proposed legislation; special reports, etc.), are also included in this legislative history. In most cases, the complete text of the amending public law and accompanying House or Senate report, or document, is contained in this legislative history. However, in the few cases where a public law, report, etc., deals only incidentally with social security legislation and is of exceptional length, only pertinent excerpts are included in this history.

In some instances the House and Senate reports accompanying a particular act will not reflect one or more provisions contained in the act. This is usually due to the fact that the particular provision was added to the bill on the floor of the House, or Senate, as the case may be, after issuance of the particular report. In these cases, background material relating to the amendment may be found in the Congressional Record report of the House or Senate debate on the bill. The Congressional Record may also provide a useful supplemental reference source even in those cases in which the House or Senate report discusses the particular provision in which the researcher is interested. It is not feasible to reproduce in this legislative history the thousands of pages of the Congressional Record carrying the House and Senate debates with respect to the acts included in the history. However, on the last page of each public law contained in this volume, appears a listing of the dates on which the act was considered in the House and Senate, and the volume of the Congressional Record in which such debate may be found.

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Public Law 94-182 (H.R. 10284), December 31, 1975, An Act to amend title XVIII of the Social Security Act.

Report of the Committee on Ways and Means, to accompany H.R. 10284, House of Representatives Report No. 94-626.

Report of the Committee on Finance, to accompany H.R. 10284, Senate Report No. 94-549.

Public Law 94-202 (H.R. 10727), January 2, 1976, An Act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles.

Report of the Committee on Ways and Means, to accompany H.R. 10727, House of Representatives Report No. 94-679.

Report of the Committee on Finance, to accompany H.R. 10727, Senate Report No. 94-550.

Public Law 94-241 (H.J. Res. 549), March 24, 1976, Joint Resolution to approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America."

Report of the Committee on Interior and Insular Affairs, to accompany H.J. Res. 549, House of Representative Report No. 94-364.

Report of the Committee on Foreign Relations, to accompany H.J. Res. 549, Senate Report No. 94-596.

Public Law 94-365 (H.R. 14484), July 14, 1976, An Act to make permanent the existing temporary authority for reimbursement of States for interim assistance payments under title XVI of the Social Security Act.

Report of the Committee on Ways and Means, to accompany H.R. 14484, House of Representatives Report No. 94-1296.

Public Law 94-368 (H.R. 13501), July 16, 1976, An Act to extend or remove certain time limitations and make other administrative improvements in the Medicare program under title XVIII of the Social Security Act.

Report of the Committee on Ways and Means, to accompany H.R. 13501, House of Representatives Report No. 94-1114.

Report of the Committee on Finance, to accompany H.R. 13501, Senate Report No. 94-993.

Public Law 94-379 (H.R. 14514), August 10, 1976, An Act to permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

Report of the Committee on Ways and Means, to accompany H.R. 14514, House of Representatives Report No. 94-1310.

Public Law 94-437 (S. 522), September 30, 1976, An Act to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs.

Report of the Committee on Ways and Means, to accompany H.R. 2525, House of Representatives Report No. 94-1026, Excerpts from.

Public Law 94-455 (H.R. 10612), October 4, 1976, Tax Reform Act of 1976.

Public Law 94-460 (H.R. 9019), October 8, 1976, An Act to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations.

Conference Report, to accompany H.R. 9019, House of Representatives Report No. 94-1513, Excerpts from.

Public Law 94-563 (H.R. 15571), October 19, 1976, An Act to amend the IRC of 1954 and title II of the Social Security Act to provide that payment of social security taxes by a nonprofit organization for its employees shall constitute a constructive filing for social security coverage.

Report of the Committee on Ways and Means, to accompany
H.R. 15571, House of Representatives Report No. 94-1711.

Public Law 94-566 (H.R. 10210), October 20, 1976, An Act to
require States to extend unemployment compensation coverage
to certain previously uncovered workers; to increase the
amount of the wages subject to the Federal unemployment
tax; to increase the rate of such tax.

Report of the Committee on Finance, to accompany H.R. 10210,
Senate Report No. 94-1265.

Conference Report to accompany H.R. 10210, House of
Representatives Report No. 94-1745.

Public Law 94-569 (H.R. 7228), October 20, 1976, An Act to
amend the IRC of 1954 to provide an extension of certain
provisions relating to members of the Armed Forces missing
in action.

Report of the Committee on Finance, to accompany H.R. 7228,
Senate Report No. 94-1319.

Public Law 94-585 (H.R. 13500), October 21, 1976, An Act to
amend the Social Security Act with respect to food stamp
purchases by welfare recipients.

Report of the Committee on Finance, to accompany H.R. 13500,
Senate Report No. 94-1345.

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Message from the President
of the United States urging
action on his legislative
proposals before adjournment
of the 94th Congress, House
of Representatives, Document
No. 94-564.

LEGISLATIVE PROGRAM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

URGING ACTION ON HIS LEGISLATIVE PROPOSALS BEFORE
ADJOURNMENT OF THE 94TH CONGRESS



JULY 22, 1976.—Message referred to the Committee of the Whole House
on the State of the Union and ordered to be printed

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WASHINGTON : 1976

To the Congress of the United States :

In the weeks remaining in this session of the 94th Congress there is an opportunity to write a legislative record of which we can all be proud. Over the past 23 months I have sent legislative proposals to the Congress dealing with many vital areas of national concern. Some of these proposals have been enacted, some are nearing enactment, but many others have been stalled in the legislative process.

Today I am calling on the Congress to turn its full and undivided attention to this unfinished agenda of legislative business. If you do, the record you will take to the people will be a good one.

The agenda is long, even though it does not include everything that should be passed by the Congress before it goes home. For example, I have not included here the appropriation bills which must be passed. Most of the agenda items have been debated at length by the Congress and the time for action has arrived.

The priority categories for action are familiar ones:

- Tax reductions coupled with spending restraint;
- Crime control;
- Restoring the integrity of the Social Security System;
- Catastrophic health care protection for those covered by Medicare;
- Restrictions on forced, court ordered busing;
- Revenue sharing and block grants;
- Regulatory reform;
- Energy;
- Indemnification of swine flu manufacturers;
- The remainder of my defense program plus defense cost saving legislation; and
- And other legislation ranging from agriculture to the environment; from higher education to reform of the Federal retirement system.

In the agenda that follows, I have listed the specific legislation that needs to be passed by the Congress. I am convinced that the passage of these bills is in the real interest of all of the American people.

TAXES

PERMANENT TAX REDUCTION

This proposal would provide a \$28 billion permanent income tax reduction effective July 1, 1976. Major provisions affecting individual income taxes include an increase in personal exemptions from \$750 to \$1,000, a reduction in tax rates, and substitution of a flat standard deduction for the low income allowance and percentage standard deduction.

ESTATE AND GIFT TAX ADJUSTMENT ACT

This legislation would raise the estate tax exemption from \$60 thousand to \$150 thousand and make all transfers of assets between spouses exempt from estate and gift taxes. The estate tax rate structure would be altered so that taxes on the largest estates would remain unchanged.

In addition, this legislation would make it easier to continue the family ownership of a small farm or business following an owner's death. This would be accomplished by liberalizing present rules governing installment payments of estate taxes attributable to a small family farm or closely-held business by providing a 5-year "grace" period before such payments must begin, reducing the interest rate on those payments, and by extending the installment period from 10 to 20 years.

JOBS CREATION INCENTIVE ACT

This legislation would encourage construction of new facilities and expansion of old facilities in areas experiencing unemployment in excess of 7 percent in order to increase employment opportunities in these areas. The increased construction would be encouraged by allowing very rapid amortization for nonresidential buildings and capital equipment.

BROADENED STOCK OWNERSHIP

Tax incentives to encourage broader ownership of common stock by working men and women would be provided by this proposal. Taxes on funds invested in stock-purchase plans established by employers or directly by individuals would be deferred provided such funds are invested for at least 7 years.

CRIME CONTROL

AMENDMENTS TO THE CRIMINAL CODE

Amendments would provide for the imposition of a mandatory term of imprisonment in certain cases. A mandatory term of imprisonment would be imposed if the offender: (1) commits an extraordinarily serious crime involving kidnapping, aircraft hijacking, or trafficking in hard drugs; (2) commits a violent offense after previously having committed a violent offense. A separate amendment would provide mandatory prison sentences for anyone who uses a gun in the commission of a crime. This amendment would also ban the importation, manufacture, assembly, sale or transfer of cheap, easily concealable handguns (the so-called "Saturday Night Specials").

NARCOTIC SENTENCING AND SEIZURE ACT OF 1976

This legislation would improve the ability of law enforcement officials to put traffickers of hard drugs into prison, take the easy profits out of drug trafficking, and improve the capacity of law enforcement officials to detect and apprehend drug smugglers. Major features of the proposal would require (1) minimum mandatory prison sentences for persons convicted of opiate (heroin and similar narcotic drugs) trafficking, (2) denial of bail to persons arrested for opiate

trafficking, (3) the forfeiture under certain conditions of negotiable instruments used or intended to be used in illegal opiate trafficking, and (4) masters of boats—including pleasure vessels—to report their arrival to Customs authorities within 24 hours.

CRIME CONTROL ACT

The Administration's proposal would extend the Law Enforcement Assistance Administration (LEAA) for five years, place LEAA under the general policy direction of the Attorney General, authorize LEAA to allocate up to \$50 million annually to high crime impact areas, eliminate provisions in current law which require maintenance of previous LEAA spending for juvenile delinquency programs at the 1972 level, and place special emphasis on improving the operation of State and local court systems. This legislation is designed to continue a vital Federal financial and technical assistance program to State and local governments so that they can improve their ability to enforce the law.

JUSTICE DEPARTMENT REORGANIZATION AND REFORM ACT

The proposed legislation would provide a constitutional means of helping curb corruption in Government. It would establish within the Department of Justice a permanent Office of Special Prosecutor, whose head would be appointed by the President with Senate confirmation, and a Government Crimes Section in the Criminal Division to investigate and prosecute job-related criminal violations of Federal law committed by any elected or appointed Federal Government officer or employee. A proposed Government Crimes Section in Justice would have responsibility for investigating criminal violations of Federal lobbying and campaign laws. This legislation would also require designated officers and employees of the Federal Government to file comprehensive annual financial statements.

SOCIAL SECURITY

SOCIAL SECURITY IMPROVEMENT AMENDMENTS

Two legislative proposals have been submitted to Congress to help insure a secure and viable Social Security system.

The "Social Security Amendments of 1976" would increase Social Security payroll contributions and thereby stop the immediate, short-term drain on the Social Security trust funds—which are now expected to pay out about \$4 billion more in benefits each year than they take in.

The "Social Security Benefit Indexing Act" would correct a serious flaw in the method of computing benefits which, if left unchanged, would create severe long-range financial pressures on the trust funds. The two measures are necessary first steps to solve both the short and long-range financial problems of the Social Security system.

CATASTROPHIC HEALTH PROTECTION

MEDICARE IMPROVEMENTS OF 1976

The proposed "Medicare Improvements of 1976" is designed to provide greater protection against catastrophic health costs for the

25 million aged and disabled Americans eligible for Medicare. An estimated 3 million beneficiaries would pay less in 1977 as a result of the proposed annual limits of \$500 for hospital services and \$250 for physician services. The legislation would also provide for moderate cost-sharing for Medicare beneficiaries to encourage economical use of medical services and would slow down health cost inflation by putting a limit on Federal payments to hospitals and physicians.

BUSING

SCHOOL DESEGREGATION STANDARDS AND ASSISTANCE ACT

The purpose of this legislation is to maintain progress toward the orderly elimination of illegal segregation in public schools while preserving community control of schools. The legislation would set guidelines for Federal courts concerning the use of busing in school desegregation cases. It would require that courts determine the extent to which acts of unlawful discrimination have caused a greater degree of racial concentration in a school or school system than would have existed otherwise and to confine the relief provided to correcting the racial imbalance caused by those unlawful acts. The legislation would also limit the duration of court-ordered busing, generally to a period of no longer than five years.

GENERAL REVENUE SHARING AND BLOCK GRANTS

GENERAL REVENUE SHARING: EXTENSION AND REVISION OF THE STATE AND LOCAL FISCAL ASSISTANCE ACT

This proposal would extend and revise the highly successful general revenue sharing program which expires on December 31, 1976. The program would be extended for five and three-quarters years, and the current method of funding with annual increases of \$150 million would be retained. The basic revenue sharing formula would be retained but the existing per capita restraint would be eased. Civil rights and public participation provisions would be strengthened while reporting requirements would be made more flexible.

FEDERAL ASSISTANCE FOR COMMUNITY SERVICES ACT

This proposal would improve and strengthen the program of social services established under Title XX of the Social Security Act. The \$2.5 billion provided annually by the Federal Government would be distributed as a block grant to the States, with no requirement for State matching funds. Most Federal requirements and prohibitions on the use of Federal funds would be eliminated. Services to low-income Americans would be emphasized; Federal funds would be focused on those whose incomes fall below the poverty income guidelines.

FINANCIAL ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION

This proposal would consolidate 24 programs of Federal assistance to State and local education agencies for non-postsecondary education purposes into one block grant. Three-quarters of the Federal support

would have to be used for disadvantaged and handicapped students, with greater flexibility for States to target funds among programs in accordance with their own priorities. Administrative requirements on the States would be greatly reduced through reduction of Federal regulations and simplification of reporting procedures, and public participation would be required in the State planning process.

FINANCIAL ASSISTANCE FOR HEALTH CARE ACT

This proposal would consolidate Medicaid and 15 categorical Federal health programs into a single \$10 billion block grant to the States. The proposal is designed to overcome some of the most serious defects in the present system of Federal financing of health care and to permit States to meet their citizens' health needs in a more effective manner. It would achieve a more equitable distribution of Federal health dollars among States, and eliminate the present State matching requirements. It would also reduce Federal red tape, give States greater flexibility in providing for delivery of health care services to those with low income, and expand public participation in health planning.

CHILD NUTRITION REFORM ACT OF 1976

This proposal would establish a single comprehensive block grant to provide Federal funds for States to feed needy children. It would consolidate into a single authority the fifteen complex and overlapping child nutrition programs currently administered by the Department of Agriculture. This new approach would concentrate Federal spending on the nutritional needs of poor children, while eliminating the substantial Federal subsidies now provided for non-needy children. It would also ease the heavy administrative burden being imposed on State and local governments by the complicated requirements and inflexible mandates of the present programs.

REGULATORY REFORM

AGENDA FOR GOVERNMENT REFORM ACT

The Agenda for Government Reform Act would authorize a major review of Federal regulatory activities. It would require the President, over a four-year period, to submit specific proposals to the Congress for the reform of Federal regulatory activities affecting certain sectors of the American economy (e.g., transportation, agriculture, public utilities, etc.). It is designed to produce reforms to guarantee that government policies do not infringe unnecessarily on individual choices and initiative nor intervene needlessly in the marketplace, to find better ways to achieve our social goals at minimal economic cost, to insure that government policies and programs benefit the public interest rather than special interests, and to assure that regulatory policies are equitably enforced.

AVIATION ACT OF 1975

The Aviation Act is designed to provide consumers better air transportation services at a lower cost by increasing real competition in the

airline industry, removing artificial and unnecessary regulatory constraints and ensuring continuance of a safe and efficient air transportation system. It would introduce and foster price competition in the airline industry; provide for the entry of new airline service; eliminate anti-competitive air carrier agreements; and ensure that the regulatory system protects consumer interests rather than special industry interests.

MOTOR CARRIER REFORM ACT

The Motor Carrier Reform Act would benefit the consuming public and the users of motor carrier services by eliminating excessive and outdated regulations affecting trucking firms and bus companies. It would stimulate competition in these industries, increase their freedom to adjust rates and fares to changing economic conditions, eliminate restrictions requiring empty backhauls, underloading, or circuitous routing, and enhance enforcement of safety regulations.

FINANCIAL INSTITUTIONS ACT

The Financial Institutions Act is intended to remove Federal restrictions on the interest rates and services banks and savings and loan associations can offer to the public. It is designed to offer more competitive returns to small savers and a more diversified range of services to all banking customers.

ENERGY

NEW NATURAL GAS DEREGULATION

This bill is designed to reverse the declining natural gas supply trend as quickly as possible and to insure increased supplies of natural gas at reasonable prices to the consumer. Under the proposal, wellhead price controls over new natural gas sold in interstate commerce would be removed. This action will enable interstate pipelines to compete for new onshore gas and encourage drilling for gas onshore and in offshore areas.

ALASKAN NATURAL GAS TRANSPORTATION SYSTEM

This bill was designed to expedite the selection and construction of a system for the transportation of natural gas from the North Slope of Alaska to the lower 48 States through the establishment of new administrative and judicial procedures. The bill is necessary because of expected prolonged litigation of any Federal Power Commission decision and to assure that all necessary considerations are brought to bear in selecting a system. The bill would enable reaching a decision on this vital issue by no later than October 1, 1977 while still providing adequately for the detailed technical, financial and environmental studies that must be completed to assure a decision in the public interest, with participation by both the Congress and the Executive.

NUCLEAR FUEL ASSURANCE ACT

This legislation would authorize the Energy Research and Development Administration to enter into cooperative agreements with private firms wishing to finance, build, own and operate uranium enrich-

ment plants and authorize work on an addition to a government-owned enrichment plant. Existing capacity is fully committed. Additional capacity is needed to meet domestic demands for fuel for commercial nuclear power plants and to enable the U.S. to maintain its position as a leading world supplier of nuclear fuel and equipment for peaceful purposes. This legislation would permit a transition to a private competitive uranium enrichment industry, ending the government monopoly and avoiding the need to spend Federal funds for capacity that can be provided by private industry.

COMMERCIAL PRICING FOR URANIUM ENRICHMENT SERVICE

This legislation would permit the Energy Research and Development Administration (ERDA) to revise the basis for establishing its prices for uranium enrichment services to domestic and foreign customers. It would enable ERDA to include cost elements in its price which should be associated with a commercial-industrial activity (e.g., provisions for taxes, insurance, and return on equity). The bill would end an unjustifiable subsidy by the taxpayers to domestic and foreign customers.

SYNTHETIC FUELS

The Administration supports legislation to amend the Energy Research and Development Administration's existing authorities to provide \$2 billion in loan guarantees during 1977 for the commercial demonstration of synthetic fuel production from coal, oil shale, and other domestic resources. A total of \$6 billion in loan guarantees is expected to be necessary over the 1976 to 1978 period in order to reach the 1985 objective of 350,000 barrels per day of synthetic fuel production capacity. With the enactment of the Energy Independence Authority legislation these ERDA projects will be transferred to the Energy Independence Authority.

WINTERIZATION ASSISTANCE ACT

This proposal would establish within the Federal Energy Administration, a grant program for States to assist low income persons, particularly the elderly, in winterizing their homes in order to reduce the long-term consumption of energy. The combined savings in fuel, estimated to be thousands of barrels a day, would not only lessen America's dependence on imported fuels, but would also lower heating bills of low-income persons and families.

BUILDING ENERGY CONSERVATION STANDARDS ACT OF 1975

This proposal would establish thermal (heating and cooling) efficiency standards for all new homes and commercial buildings to conserve energy. It is anticipated that this program will save the equivalent of 350,000 barrels of oil per day in 1985. Standards would be promulgated by HUD and primary responsibility for enforcement would be with State and local governments through building codes.

UTILITIES ACT OF 1975

This bill is designed to help restore the financial health of electric utilities. It would eliminate undue regulatory lags involved in approv-

ing proposed rate changes and assure that rates adequately reflect the full cost of generating and transmitting electricity. Though many States have already adopted similar programs, enactment of the bill will establish certain standard regulatory procedures across the Nation, resulting in more equitable treatment of utilities.

FEDERAL ENERGY ADMINISTRATION EXTENSION ACT

The Administration has proposed a simple extension of the Federal Energy Administration for 18 months. This will provide the continuity needed to insure FEA's ability to implement the complex programs contained in the Energy Policy and Conservation Act of 1975 and to adequately administer oil price controls.

ENERGY INDEPENDENCE AUTHORITY OF 1975

This Act would establish a \$100 billion Energy Independence Authority, a self-liquidating corporation designed to encourage the flow of capital and provide financial assistance, through loans and loan guarantees, to private enterprise engaged in the development of energy sources and supplies important to the attainment of energy independence but which would not otherwise be financed.

This bill also seeks to expedite and facilitate the Federal regulatory and licensing process and to hasten the commercial operation of new energy technologies subsequent to the research and development phase.

NUCLEAR POWERPLANT SITING AND LICENSING PROCEDURES

This legislation is intended to shorten and improve the licensing process for nuclear facilities by allowing licensing procedures for reactor sites and standardized reactor designs to be completed at an earlier point in time. It would require the Nuclear Regulatory Commission to assure expeditious reactor siting and licensing hearings consistent with the public safety, exclude from consideration any issue which has either been decided or which could have been raised and decided in previous proceedings, and coordinate planning and scheduling of siting and licensing procedures with State agencies.

ELECTRIC POWER FACILITY CONSTRUCTION INCENTIVE ACT

This legislation is designed to provide tax incentives to stimulate the construction of new electric power generating facilities other than petroleum fueled generating plants. Construction costs of electric utilities would be reduced through changes in the investment tax credit and allowances for amortization and depreciation. These provisions would encourage utilities to reactivate their plans for the construction of nuclear plants and coal-fired plants that were cancelled or deferred in 1974 and 1975.

ENERGY FACILITIES PLANNING AND DEVELOPMENT ACT

This bill is designed to expedite the development of energy facilities. The Federal Energy Administration would be required to develop

a National Energy Site and Facility Report with appropriate Federal, State, industry and public input. Information in this report would be utilized by the Federal Government, the States and industry in developing and implementing plans to insure that needed energy facilities are sited, approved and constructed on a timely basis. At the Federal level, FEA would be responsible for coordinating and expediting the processing of applications to construct energy facilities.

NATURAL GAS EMERGENCY STANDBY ACT

This legislation would provide a limited exemption from the regulation of natural gas in interstate commerce. It would grant the Federal Power Commission authority to allow companies which transport natural gas in interstate commerce to meet the natural gas requirements of their high priority users by purchasing natural gas (a) from sources not in interstate commerce and (b) from other companies on an emergency basis free from the provisions of the Natural Gas Act, except for reporting requirements.

CLEAN AIR ACT AMENDMENTS

The Administration favors legislation which would stabilize auto emission standards at the levels specified by EPA for model year 1977 for three years and imposes stricter standards for two years thereafter. With respect to significant deterioration and stationary source standards, changes are needed to achieve a better balance among environmental, energy and economic needs.

DEFENSE

Proposed changes to the Defense budget will be transmitted to the Congress in a separate message. These changes will include revised authorization and appropriation requests. These changes will:

1. Request approval of vital Defense programs deleted in Congressional action thus far.
2. Request deletion of unneeded increases the Congress added to the Defense program.
3. Request approval of a series of legislative proposals which would produce major economies without impairing our national defense capabilities.

In addition to changes in the Defense budget, the Congress should enact the following legislation.

MILITARY CONSTRUCTION APPROPRIATION AUTHORIZATION, FISCAL YEAR 1977

This legislation authorizes fiscal year 1977 appropriations for new construction for Defense, the military departments and the Reserve Components. On July 2, 1976, H.R. 12384 was vetoed because it contained a provision which would have seriously restricted the Executive's ability to carry out certain military base closures and reductions. Congress should reenact this otherwise acceptable legislation without the objectionable base closure provision.

UNIFORMED SERVICES RETIREMENT MODERNIZATION ACT

The Administration's legislation proposes substantial revisions to the uniformed services nondisability retirement system designed to increase its effectiveness both as an element of the compensation system and as an element of the personnel management system. These revisions would be phased in gradually with appropriate provisions for saved-pay. Major features of the proposal include:

- Increased multipliers for members with long service (over 24 years).
- An early retirement annuity for members who retire short of a full career (less than 30 years) with an increased annuity when they would have reached 30 years of service.
- Use of the highest average basic pay for one year instead of terminal basic pay in computing retirement annuities.
- Integration of military and social security retirement benefits at age 65.
- Payments to both voluntary and involuntary separatees who leave before completing 20 years of service.

RESTRAINT ITEMS REQUIRING PERMANENT LEGISLATION

1. Wage Board pay reform.
2. Phase out commissary direct labor subsidy.
3. Eliminate 1% "kicker" from retired pay adjustment computation.
4. Eliminate administrative duty pay for Reserve and National Guard Commanders.
5. Reduce the number of annual paid drills for the National Guard.
6. Eliminate dual compensation of Federal employees for National Guard and Reserve annual training.
7. Revise cadet and midshipman pay policy.

INTERNATIONAL

BRETTON WOODS AGREEMENT ACT AMENDMENTS

This legislation would authorize the United States to accept fundamental amendments to the Article of Agreement of the International Monetary Fund. The amendments to the Articles generally concern: members' exchange arrangements; reduction in the role of gold in the international monetary system; changes in the characteristics and uses of the special drawing right; and simplification and modernization of the Fund's financial operations and transactions. The bill would also authorize the United States to consent to an increase in its quota in the Fund equivalent to \$1,705 million Special Drawing Rights.

PROTECTION OF INTELLIGENCE SOURCES AND METHODS

This legislation is designed to protect intelligence sources and methods from unauthorized disclosures. It provides for criminal and civil sanctions against those who are authorized access to such intelligence information and who reveal it to unauthorized persons. The bill contains provisions to prevent damaging disclosures of intelligence sources and methods in the course of prosecution and also includes

safeguards to adequately protect the rights of an accused. Injunctive relief would be provided in those instances in which unauthorized disclosure is threatened and serious damage to intelligence collection efforts would result.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

This legislation is designed to ensure that the Government will be able to collect necessary foreign intelligence while at the same time providing assurances to the public that electronic surveillance for foreign intelligence purposes will not be abused. The proposed bill would provide a procedure for seeking a judicial order approving the use, in a particular case, of electronic surveillance to obtain foreign intelligence information. It also would establish standards that must be satisfied before any such order could be entered. The bill follows the framework of existing law governing such surveillance undertaken for criminal law enforcement purposes, with appropriate adjustments to meet the special needs and purposes of foreign intelligence investigations.

EXPORT ADMINISTRATION ACT EXTENSION

This legislation would extend the Export Administration Act from September 30, 1976, to September 30, 1979. The Act authorizes the President to regulate exports of U.S. goods and technology to the extent necessary to protect the domestic economy from an excessive drain of scarce materials, to further the foreign policy of the United States and to control exports when necessary for purposes of national security. The Administration also has requested that the maximum civil penalty under the Act be raised from \$1,000 to \$10,000 and that criminal penalties be raised from \$10,000 to more meaningful levels.

FINANCIAL SUPPORT FUND

This legislation would authorize the President to accept membership for the United States in a new, \$25 billion Financial Support Fund agreed to by the Organization for Economic Cooperation and Development (OECD). The Fund would be available for a period of two years to provide short to medium-term financing to participating OECD members faced with extraordinary financing needs. The proposal for the Fund was developed as part of a comprehensive response to the economic and financial problems posed by severe increases in oil prices.

The Administration's proposal would permit U.S. participation in the Fund by authorizing the Secretary of the Treasury to issue guarantees. The bill would authorize appropriations of such sums as are necessary to meet obligations on guarantees issued by the Secretary but not to exceed an amount equivalent to approximately \$7 billion.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (IBRD), INCREASED U.S. PARTICIPATION

This legislation would authorize the Secretary of the Treasury as the United States Governor to the IBRD (World Bank) to vote for

an increase of \$8.4 billion in the authorized capital stock of the Bank. It would also authorize him to subscribe, on behalf of the United States, to an additional 13,005 shares of capital stock and authorize appropriations of approximately \$1.57 billion for the increase in United States participation.

IMPLEMENT AGREEMENT BETWEEN THE UNITED STATES AND TURKEY

This proposed joint resolution would approve the new Defense Cooperation Agreement with the Government of Turkey and authorize the President to implement the Agreement.

ECONOMIC COERCION ACT OF 1975

This proposal would prohibit any business enterprise from using economic means to coerce any person or entity to fail to do business with or otherwise to discriminate against any United States person on the ground of race, color, religion, sex or national origin. The prohibition would be enforced by civil actions brought by aggrieved persons or by the Attorney General.

INCREASED PARTICIPATION IN THE ASIAN DEVELOPMENT FUND

This legislation would authorize appropriations of \$50 million which would permit the United States to make the first of three scheduled contributions to a multi-donor replenishment of the Asian Development Fund.

AGRICULTURE

U.S. GRAIN STANDARDS ACT AMENDMENTS

The Administration proposed a bill to amend the United States Grain Standards Act to improve the grain inspection system. Specifically, the bill would:

- Retain the Federal, State and private grain inspection system now in effect, but authorizes USDA to perform original inspection on an interim basis during suspension or revocation proceedings against an official inspection agency, or where other qualified agency or person is not willing or able to provide service;
- Authorize USDA to conduct monitoring activities in foreign ports for grain officially inspected under the Act;
- Eliminates the potential for conflict of interest from the present grain inspection system;
- Require official inspection agencies to comply with certain training, staffing, supervisory and reporting requirements;
- Provide for the suspension or revocation of official inspection agencies for violation of the Act;
- Provide for the triennial designation of all official inspection agencies; and,
- Require the payment of grain inspection fees which would make the program largely self-supporting.

FEDERAL CROP INSURANCE ACT

The Administration proposed a bill to amend the Federal Crop Insurance Act and to repeal the disaster payment provisions for feed grains, cotton, and wheat under the Agriculture Act of 1949. The proposed amendments would permit the Federal Crop Insurance Corporation to offer insurance on a nationwide basis on feed grains, cotton, and wheat and thus provide the producers of those commodities with protection from the financial losses attributable to crop failures. It would also permit the Corporation to reinsure policies written by private insurance companies thereby expanding the availability of this valuable service. This program would save an estimated \$250 million in government outlays annually and place the cost of and responsibility for maintaining crop insurance on the producers who would benefit from it.

RESTRUCTURE AGRICULTURE CONSERVATION PROGRAM

The Administration proposed a bill to update the conditions under which the Federal Government provides financial assistance to agricultural producers for needed soil, water, woodland, and wildlife conservation and environmental enhancement measures on agricultural lands. Specifically, the bill would:

- Provide for financial assistance to those agricultural producers *who are financially unable* to fully carry out needed conservation practices; and,
- Limit financial assistance* under the Act to *enduring type* practices pertaining to soil, water, woodland, and wildlife conservation on agricultural lands and *emphasize long-term agreements* as opposed to *annual or short-term* conservation practices.

ENVIRONMENT

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

The 1976 amendments proposed to the Act would affect future funding of the waste water treatment grant program. They would focus Federal funding on the construction of treatment plants and associated interceptor sewers; eliminate the eligibility of that portion of each project designed to serve reserve capacity for future population growth; and authorize the Administrator of EPA to extend the July 1, 1977 deadline for compliance with secondary treatment and water quality standards on a case-by-case basis for periods not to exceed six years. In addition, extensions of appropriation authorizations were proposed for FY 76 and FY 77.

COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

The Comprehensive Oil Pollution Liability and Compensation Act of 1975 would establish a \$200 million domestic fund which would be available to compensate individuals who suffer damages from oil spills in U.S. waters. The bill would create a uniform nationwide system

of strict liability for oil spill damages and a standard procedure for settlement of claims. It would also implement two international conventions which deal with oil pollution caused by tankers on the high seas.

INCOME ASSISTANCE

NATIONAL FOOD STAMP REFORM ACT

This proposal would concentrate food stamp program benefits on those truly in need, significantly improve program administration, and correct abuses and inequities of the current program. A standard deduction would replace the present set of complex itemized deductions; eligibility would be limited to those whose net income is below the poverty level; families would be required to spend 30 percent of household income for stamps; a more realistic measure of actual income over the preceding 90 days would be used to determine eligibility; categorical eligibility for public assistance recipients would be eliminated; and able-bodied recipients would be required to seek, accept, and retain gainful employment.

WORK INCENTIVE (WIN) PROGRAM AMENDMENTS OF 1976

The purpose of the Work Incentive (WIN) program is to help recipients of Aid to Families with Dependent Children (AFDC) shift from welfare to self-support through employment. The proposed WIN amendments would redesign the program to help more AFDC applicants and recipients move into the mainstream of the economy with greater efficiency and less cost to the taxpayers. It would revise WIN to ensure that employable AFDC applicants and recipients in WIN areas are exposed to job opportunities, and will actively search for and accept suitable jobs. The legislation would extend to AFDC applicants the employment services presently provided only to AFDC recipients—i.e., direct placement and labor market exposure—and would terminate the less effective work and training components of the WIN program.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) AMENDMENTS OF 1976

This proposal would simplify the administration of the Aid to Families with Dependent Children (AFDC) program and focus the resources devoted to this program on the most needy. For example, it would standardize the disregard for work-related expenses, thereby eliminating one of the troublesome inequities of the AFDC program, and it would eliminate the dual work registration requirement for unemployed fathers which would remove an extra burden on the individual and reduce administrative work. It would also require that an applicant for AFDC under the unemployed fathers program apply for and accept any unemployment compensation benefits to which he is entitled. Currently, as a result of a Supreme Court decision, an individual who is eligible for unemployment compensation benefits has the option of applying for either unemployment compensation benefits or AFDC benefits. An individual's first recourse should be to unemployment benefits for which his employer has contributed and to which he is entitled.

LOW INCOME HOUSING CONTRIBUTIONS

This proposal would amend the definition of "income" used in determining eligibility and maximum rental charges under the low-income public housing program, to conform the criteria used in public housing to those used in the lower-income housing assistance program under section 8 of the United States Housing Act of 1937. Present law provides for a number of exclusions from income, among which are exclusions for minor children, extraordinary medical or other expenses, and a flat deduction of 5 percent of the family's gross income (10 percent in the case of elderly households). The amendment would require exclusions only for the number of minor children in the household and for the extent of medical or other unusual expenses. This would promote equity between tenants and public housing authorities and between tenants and Federal taxpayers.

UNEMPLOYMENT COMPENSATION AMENDMENTS

This proposal would expand coverage under the regular unemployment insurance system to additional groups of workers and would make urgently needed changes to strengthen the financing of the system. The permanent extended unemployment insurance program would be made more responsive to changes in the economy. A National Commission on Unemployment Compensation would be established to comprehensively study the system and proposed changes, and make recommendations for further improvements.

VETERANS

MEDICAL INSURANCE FOR VA HOSPITAL CARE

Many veterans who receive free medical care at VA hospitals have health insurance. This proposal would require the insurance companies to reimburse the VA for hospital care provided to veterans who do not have disabilities resulting from active military service. The proposal reflects the Administration's belief that the Federal taxpayer should not bear the cost of treating people with no service-connected disabilities when to do so will benefit only third parties, including insurance companies, who are legally liable for the disability or injury necessitating such treatment.

TERMINATION OF VETERANS EDUCATIONAL BENEFITS

This proposal would terminate VA education benefits for those men and women who decide in the future to enter the peacetime All-Volunteer Force. The educational assistance programs for veterans, from their inception, were designed as readjustment benefits for those who served during wartime. They were never intended to be a continuing benefit and both the World War II and Korean conflict GI Bill programs were terminated within a reasonable period after the cessation of hostilities. The Vietnam conflict officially ended in May 1975; the draft, in June 1973. With the advent of a peacetime, All-Volunteer Force, GI Bill educational benefits are no longer appropriate for those who enter military service in the future.

OTHER

INDEMNIFICATION OF SWINE FLU MANUFACTURERS

This proposal is essential to implementation of the National Influenza Immunization Program. Current law bars the Federal Government from agreeing to indemnify vaccine manufacturers for losses from injuries which may result from the Federal Government's activities in the immunization program. The Administration proposal would enable HEW to agree to indemnify the manufacturers against claims attributable to inoculation with the vaccine, except claims arising out of the negligence of the manufacturer.

STUDENT LOAN AMENDMENTS

This proposal would correct certain abuses in the Federal guaranteed student loan program that have resulted in high default rates under that program. Specifically, the proposal would amend Title IV of the Higher Education Act to eliminate proprietary schools as eligible lenders, and amend the Bankruptcy Act to make student loans nondischargeable in bankruptcy during the five-year period after the first installment becomes due. The proposal would also prohibit borrowers who default on guaranteed loans from receiving a basic educational opportunity grant or any further guaranteed loans.

FEDERAL IMPACT AID AMENDMENTS OF 1976

This bill would reform the impact aid program by targeting funds only on those school districts that are truly adversely affected by Federal activities. It would provide support to local education agencies only for those children whose parents both live and work on Federal property. These people do not pay property taxes, and the Administration believes that the Federal Government has a responsibility to help pay the cost of educating their children, but not to help pay the costs of educating other children whose parents pay local property taxes.

COMPREHENSIVE HEALTH PROFESSIONS EDUCATION ACT

The Administration's proposal would provide Federal support to those medical and dental schools that agree to meet certain conditions. Unlike prior programs of Federal assistance which were directed towards increasing the aggregate numbers of doctors and dentists in the Nation, the Administration proposal would shift the emphasis of Federal support for health professions schools from merely increasing enrollments to addressing national problems of medical specialty and geographic maldistribution. The proposal is designed to produce more primary care physicians and to provide greater access to health professionals.

HIGHER EDUCATION ACT AMENDMENT AND EXTENSION

This bill would extend for four years those higher education programs which have demonstrated their effectiveness in meeting the post-

secondary education needs of the Nation. The bill would extend the most effective student assistance programs, namely, the basic educational opportunity grant program, the work-study program, the State student incentive grant program, and the guaranteed student loan program. Programs to strengthen developing institutions and the Teacher Corps program would also be extended. The bill would also simplify and clarify the requirements relating to accreditation and institutional eligibility.

CLOSURE OR TRANSFER OF PUBLIC HEALTH SERVICE HOSPITALS

This proposal is one of several Administration initiatives designed to reform Federal financing and direct delivery of health care. It would authorize HEW to transfer to community use or close the eight Public Health Service hospitals which are underutilized and which essentially serve only one occupational group. The proposal reflects the conclusion that maintenance of a Federal hospital system for some 200,000 merchant seamen is an inappropriate and inefficient use of resources, particularly in light of low hospital occupancy rates, the excess supply of hospital beds, the availability of alternative health care facilities, and the substantial capital investment which would be required to continue operation of the hospitals.

REPEAL THE 1-PERCENT ADD-ON IN THE COST-OF-LIVING ADJUSTMENT OF THE CIVIL SERVICE RETIREMENT SYSTEM

Federal civilian and military retirement systems automatically increase benefits to compensate for changes in the Consumer Price Index (CPI). Since 1969, these automatic adjustments have included a 1% add-on which has been compounded with each subsequent CPI adjustment. This bill would eliminate the 1% add-on provision in the civil service retirement law which has been progressively over-compensating Federal retirees for changes in the cost of living. The Congress has passed legislation to eliminate the 1% add-on in the military, foreign service, and CIA retirement systems, but only if it is also eliminated for the civil service retirement system.

WAGE BOARD PAY REFORM

The basic principle governing Federal blue-collar employees' pay rates is that they should be comparable with prevailing rates and pay practices in the non-Federal sector in the same locality. This bill would eliminate aspects of present law governing wage board pay rates that are inconsistent with that principle and therefore result in Federal blue-collar workers earning more than their counterparts in the private sector. Among other things, the bill would eliminate the use of wage rate data from outside the local area involved. It would also eliminate the present requirement for each grade to have five steps, and would substitute a step-rate structure that would accord with the predominant industry practice.

INCREASED AUTHORIZATION FOR CERTAIN SMALL BUSINESS LOAN PROGRAMS

This legislation would increase the total amount of loans, guarantees, and other obligations which the Small Business Administration

(SBA) may have outstanding at any one time. These revised ceilings will permit SBA to increase the number of loans made to those small businesses who otherwise would be unable to obtain credit in the private sector.

FEDERAL PROCUREMENT ACT

A number of recommendations made by the Commission on Government Procurement—including proposals to consolidate the basic Federal procurement acts and modernize the provisions for awarding contracts—would be implemented by this bill.

REORGANIZATION ACT EXTENSION

This proposal would extend the President's authority to submit plans for the reorganization of executive agencies to the Congress. This authority expired on April 1, 1973. The legislation is designed to restore the authority necessary for the President to propose reorganization in order to foster both efficiency and flexibility in the structure of the Executive branch.

STOCKPILE DISPOSAL

This legislation would authorize disposal from the national stockpile and supplemental stockpile of industrial diamond stones, antimony, tin, and silver. The amounts of these four materials recommended for disposal are in excess of adequate stockpile requirements, and their sale would result in estimated receipts of \$746 million in fiscal year 1977.

PATENT MODERNIZATION AND REFORM ACT

This legislation would substantially strengthen the American patent system by improving the strength and reliability of issued patents through procedural reforms in the patent examination and issuance process. It would also simplify procedures for obtaining patents, make more complete and precise the disclosure of information about technology contained in patents, and add new provisions concerning enforcement of patents.

WINTER OLYMPIC GAMES ASSISTANCE

This legislation would authorize Federal financial assistance for the construction of certain permanent, unique sports facilities needed for the 1980 Winter Olympic Games at Lake Placid, New York. The total amount of special Federal assistance under both existing authorities and this legislation would not exceed \$28 million plus the financing of certain increases in construction costs.

These are important legislative proposals dealing with matters of the National interest, and I urge the Congress to move with dispatch to enact them.

GERALD R. FORD.

THE WHITE HOUSE, *July 22, 1976.*

Public Law 94-182 (H.R. 10284),
December 31, 1975, An Act to
amend title XVIII of the
Social Security Act.



Public Law 94-182
94th Congress, H. R. 10284
December 31, 1975

An Act

To amend title XVIII of the Social Security Act, and for other purposes.

Be it enacted by the House of Representatives and the Senate of the United States of America in Congress assembled,

TITLE I—PROVISIONS RELATING TO HEALTH SERVICES

PREVAILING CHARGE LEVEL FOR FISCAL YEAR 1976

SEC. 101. (a) Section 1842(b)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975."

Medicare;
food stamp
distribution;
irrigation dams,
taxes.

42 USC 1395u.

(b) The amendment made by subsection (a) shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1842(b)(3) of such Act; except that (1) if less than the correct amount was paid (after the application of subsection (a) of this section) on any claim processed prior to the enactment of this section, the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than \$1.

42 USC 1395u
note.

42 USC 1395j.

EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENT FOR CERTAIN RURAL HOSPITALS

SEC. 102. Section 1861(e)(5) of the Social Security Act is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1979".

42 USC 1395x.

COORDINATION BETWEEN MEDICARE AND FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

SEC. 103. Section 1862(c) of the Social Security Act is repealed.

Repeal.
42 USC 1395y.

TECHNICAL AMENDMENT RELATING TO PART B PREMIUM
DETERMINATIONS

42 USC 1395r. SEC. 104. (a) Section 1839(c)(3) of the Social Security Act is amended by striking out "June 1" each place it appears and inserting in lieu thereof "May 1".

Effective date.
42 USC 1395r
note. (b) The amendments made by subsection (a) shall apply with respect to determinations made under section 1839(c)(3) of the Social Security Act after the date of the enactment of this Act.

PROFESSIONAL STANDARDS REVIEW AREAS

42 USC 1320c-1. SEC. 105. Section 1152 of the Social Security Act is amended by adding at the end thereof the following new subsection:

Poll. "(g)(1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each such area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: 'Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?'. If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.

Nonapplicability. "(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to the date of enactment of this subsection, the Secretary has entered into an agreement (on a conditional basis or otherwise) with an organization designating it as the Professional Standards Review Organization for any area in the State."

UPDATING OF THE LIFE SAFETY REQUIREMENTS APPLICABLE TO
NURSING HOMES

42 USC 1395x. SEC. 106. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "(21st edition, 1967)" and inserting in lieu thereof "(23d edition, 1973)".

Effective date.
42 USC 1395x
note. (b) Subject to subsection (c), the amendment made by subsection (a) shall be effective on the first day of the sixth month which begins after the date of enactment of this Act.

(c) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day preceding the first day referred to in subsection (b) shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII and XIX of such Act) to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section.

42 USC 1395,
1396.

GRANTS FOR CERTAIN EXPERIMENTS AND DEMONSTRATION PROJECTS

SEC. 107. Nothing contained in section 222(a) of Public Law 92-603 shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if—

42 USC 1395f
note.

(1) the applicant for such grant is a State or an agency thereof,

(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act,

42 USC 1396.

(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3).

PROFESSIONAL STANDARDS REVIEW ORGANIZATION STARTUP DEADLINE

SEC. 108. (a) Subsections (c) (1) and (f) (1) of section 1152 of the Social Security Act are each amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1978".

42 USC 1320c-1.

(b) The amendments made by subsection (a) shall not apply in any area designated in accordance with section 1152(a) (1) of the Social Security Act where—

42 USC 1320c-1
note.

(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or

(2) the organization proposed to be designated by the Secretary under section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f) (2) thereof.

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN SERVICES PROVIDED BY OPTOMETRISTS

SEC. 109. The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than 4 months after the date of enactment of this section a report containing his findings and recommendations with respect to, the appropriateness of reimbursement under the insurance program established by part B of

Study, report
to Congress.
42 USC 1395j
note.

42 USC 1395j. title XVIII of the Social Security Act for services performed by doctors of optometry but not presently recognized for purposes of reimbursement with respect to the provision of prosthetic lenses for patients with aphakia.

UTILIZATION REVIEW UNDER MEDICAID

42 USC 1396b. SEC. 110. (a) Section 1903(g)(1)(C) of the Social Security Act is amended to read as follows:

42 USC 1396a. “(C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a)(30) whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved; and the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 per centum of all admissions and must be of sufficient size to serve the purpose of (i) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (ii) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted; and”.

Effective date. (b) The amendment made by subsection (a) shall take effect on the
42 USC 1396b first day of the first calendar month which begins not less than 90 days
note. after the date of enactment of this Act.

CONSENT BY STATES TO CERTAIN SUITS

42 USC 1396a. SEC. 111. (a) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 1395x. “(g) Notwithstanding any other provision of this title, a State plan for medical assistance must include a consent by the State to the exercise of the judicial power of the United States in any suit brought against the State or a State officer by or on behalf of any provider of services (as defined in section 1861(u)) with respect to the application of subsection (a)(13)(D) to services furnished under such plan after June 30, 1975, and a waiver by the State of any immunity from such a suit conferred by the 11th amendment to the Constitution or otherwise.”

USC prec. title 1. (b) Section 1903 of such Act is amended by adding at the end thereof
42 USC 1396b. the following new subsection:

“(1) Notwithstanding any other provision of this section, the amount payable to any State under this section with respect to any quarter beginning after December 31, 1975, shall be reduced by 10 per centum of the amount determined with respect to such quarter under the preceding provisions of this section if such State is found by the Secretary not to be in compliance with section 1902(g).”

Supra. (c) The amendments made by this section shall (except as otherwise
Effective date. provided therein) become effective January 1, 1976.
42 USC 1396a
note.

UTILIZATION REVIEW ACTIVITIES

SEC. 112. (a)(1) Section 1861(w) of the Social Security Act is amended— 42 USC 1395x.

(A) by inserting "(1)" immediately after "(w)", and

(B) by adding at the end thereof the following new paragraph:

"(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of title XI of the Social Security Act with respect to services furnished by a hospital to patients insured under part A of this title or entitled to have payment made for such services under a State plan approved under title V or XIX, by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients."

42 USC 1320c.

42 USC 1395c.

42 USC 701,
1396.

(2) Section 1815 of such Act is amended—

42 USC 1395g.

(A) by inserting "(a)" immediately after "SEC. 1815.", and

(B) by adding at the end thereof the following new subsection:

"(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1861(w)(2), to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this title for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1861(w)(2) shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable."

Payment to
provider of
services.
Supra.

(c) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses."

42 USC 1320c-
17.
Transfer of
funds.

(d) The amendments made by this section shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act.

Effective date.
42 USC 1395x
note.

TITLE II—PROVISIONS RELATING TO FOOD STAMPS PROVIDED TO AFDC FAMILIES

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

7 USC 2019
note.

7 USC 2019.

SEC. 201. Notwithstanding any other provision of law, the final date for compliance with regulations in implementation of section 10(e) (7) of the Food Stamp Act of 1964, as amended, may be extended until October 1, 1976.

TITLE III—INTERNAL REVENUE CODE AMENDMENT

CERTAIN IRRIGATION DAMS

26 USC 103.

SEC. 301. (a) Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c) (4) (G) if—

“(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

“(2) the water so released is available on reasonable demand to members of the general public.”

Effective date.

26 USC 103
note.

(b) The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

Approved December 31, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-626 (Comm. on Ways and Means).

SENATE REPORT No. 94-549 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 121 (1975):

Nov. 17, considered and passed House.

Dec. 17, considered and passed Senate, amended.

Dec. 18, 19, House concurred in Senate amendments with an amendment.

Dec. 19, Senate concurred in House amendment.

Report of the Committee on
Ways and Means, to accompany
H.R. 10284, House of
Representatives Report No.
94-626.

MEDICARE DEADLINE AMENDMENTS

NOVEMBER 6, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 10284]

The Committee on Ways and Means, to whom was referred the bill (H R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for three years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefits programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. PURPOSE AND BACKGROUND OF THE BILL

Your committee's Subcommittee on Health held 2 days of public hearings on possible legislative changes in medicare during September of this year. The hearings brought to light many problems in the present operation of the medicare program that warrant legislative action. Of particular and immediate importance, however, was the recognition of the need for your committee to act promptly on several issues with critical time limitations; that is, issues on which it is imperative that the Congress take quick action if it is going to act at all. The action taken by the committee on the four issues are contained in your committee's bill, H.R. 10284.

First, the bill would eliminate an unintended result of the application of section 224 of the Social Security Amendments of 1972 which requires the use of an economic index in determining how much the prevailing fee(s) for physicians' services can increase from year to year. Your committee's bill would assure that no prevailing charge in fiscal year 1976 would be less than it was in fiscal year 1975.

Second, the bill would extend for 3 years, from January 1, 1976, through December 31, 1978, the present authority of the Secretary of HEW to grant temporary waivers of nursing staff requirements for the purpose of enabling small hospitals in rural areas where nursing personnel are in short supply and alternative health facilities are not readily available to qualify under the medicare program.

Third, the bill would provide for the continuation of the present system of coordination of the medicare and Federal Employees' Health Benefits (FEHB) programs, which your committee now believes, on the basis of extensive analysis, is the most desirable of the alternative approaches to effectively coordinate these programs. The bill would repeal that section of the Social Security Act that would require medicare to stop making payment, as of January 1, 1976, for services furnished to a beneficiary who is also covered by the FEHB program.

Finally, the bill would permit increases in premiums for part B of medicare, on July 1, 1976, and in future years at rates no greater than the rate of increase in monthly social security benefits (from which the premiums are deducted). In doing so, the bill would correct a technical error in existing law.

II. GENERAL STATEMENT

A. LIMITS ON PREVAILING CHARGE LEVELS

Responding to concerns over the rapidly increasing expenditures under the medicare program, your committee included several cost-control provisions in the Social Security Amendments of 1972. One of these provisions set a limit on increases in the reimbursement for physicians' services.

The original 1965 medicare law provided for coverage of physicians' services under part B of title XVIII of the Social Security Act (the supplementary medical insurance program). After the beneficiary has incurred an initial deductible, medicare pays 80 percent of what is determined as the "reasonable charge" for the covered service.

Payment for the covered service is made directly to the beneficiary unless the beneficiary assigns the right to the benefits to the physician who furnished the service, in which case payment is sent directly to the physician. When the physician accepts assignment, the reasonable charge has to be accepted as the full payment—the physician agrees to bill the patient *only* for the 20 percent coinsurance which medicare does not pay.

The legislation requires that in determining the reasonable charge, the carrier take into consideration the customary charges for similar services generally made by the physician as well as the prevailing charges in the locality for similar services.

In 1966, very few health insurance plans routinely considered a physician's customary charges in their reimbursement policy. As the carriers began to develop reasonable charge determinations, it soon became evident that the policies were not consistent among the various carriers. This led the Social Security Administration (SSA) to bring about greater uniformity in reasonable charge determination through the issuance of regulations and guidelines.

The SSA interpreted it as congressional intent that the medicare "reasonable charge" be the lowest of: (1) the actual charge, (2) the customary charge of a physician for a similar service, and (3) the prevailing charge in a locality for a similar service.

There were no specifics in the law or legislative history as to how either the customary charge or the prevailing charge was to be established. Regulations in 1967 directed the carriers to consider a physician's customary charge for a particular service to be the median or midpoint of all the charges made for that service. Where evidence showed that a physician had changed his charge for a service, the new customary charge was to be recognized as the medicare customary charge.

Inherent in this procedure was a certain lag time; the regulations required that any new customary charge be based on accumulated evidence that the physician's customary charge pattern had changed. This lag time became one of the methods used to delay recognition of increases in physicians' fees. In 1968, SSA informally encouraged carriers to delay at least 12 months before changing the customary charge level.

In 1971, SSA issued a letter to intermediaries mandating a one and one-half year lag time. Carriers were to develop customary charge screens based on actual charge data for all of calendar year 1970 and use the screen for all claims received on or after July 1, 1971. This policy was consistent with the provisions of H.R. 1 as it passed the House in 1971.

These guidelines were the beginning of the present medicare reimbursement policy under which customary charge screens used during a fiscal year (beginning July 1 or as soon thereafter as they can be incorporated into the carriers' payment systems) are based on all the actual charges made during the preceding calendar year. This creates a lag of 18 months in updating customary charges.

The prevailing charge screen is, in essence, a ceiling on the customary charges of physicians in a locality for a particular service. As in the case of the customary charge, neither the law nor legislative history specified how the prevailing charge was to be determined.

Initially carriers used a variety of methods to determine the prevailing charge. In 1968, SSA directed all carriers to use a method which based the prevailing charge limit on the 83rd percentile of all the customary charges of all physicians for a particular service. Under the percentile approach, a carrier determined the amount which covered 83 percent of all the customary charges for a service; then, this amount became the maximum amount which could be paid—the prevailing charge limit—even though the customary charge of a particular physician for a particular service was higher.

In the 1971 intermediary letter, the SSA directed that this 83rd percentile be reduced to the 75th percentile of the customary charges. This was the same letter which directed carriers to update customary charges only every July 1 and base them on actual charges made during the preceding calendar year. Since the prevailing charge is based on customary charges there is, of course, the same 18-month lag created for the prevailing charge.

The Social Security Amendments of 1972 included several provisions designed to control the escalating costs of the medicare program. Among these were two provisions specifically related to the determination of the reasonable charge for physicians' services. Although separate provisions, these were both in section 224 of the law (Public Law 92-603).

One of the provisions embodied in the statute was the existing administrative policy for determining the reasonable charge, the customary charge and the prevailing charge. The law required that the reasonable charge for claims submitted after December 31, 1970, could not exceed the customary charge of the physician for similar services or the prevailing charge for similar services in the locality. The customary charges of physicians for particular services were to be determined at the beginning of each fiscal year based on actual charge data from the preceding calendar year (i.e., FY 1973 data was to be based on calendar year 1971 actual charge data). The prevailing charge (limit) for each service was to be based on the 75th percentile of all customary charges for that service in a locality.

The second provision limited how fast the prevailing charge can increase from year to year irrespective of what the 75th percentile amount might be. The House report expressed the rationale for tying increases in the reasonable charge to increases in an economic index:

Your committee believes that it is necessary to move in the direction of an approach to reasonable charge reimbursement that ties recognition of fee increases to appropriate economic indexes so that the program will not merely recognize whatever increases in charges are established in a locality but would limit recognition of charge increases to rates that economic data indicate would be fair to all concerned.

Under the provision, the prevailing charges recognized in fiscal year 1973 for a locality could be increased in fiscal year 1974 and in later years only to the extent justified by indices reflecting changes in the operating expenses of physicians and in earnings levels. The statistical methods used to calculate the limit on increases allowed by this provision were to be established by the Secretary of HEW.

The base for the proposed economic index would be calendar year 1971. The increase in the index that occurs in a succeeding calendar year would constitute the maximum allowable aggregate increase in prevailing charges that would be recognized in the fiscal year beginning after the end of that calendar year. For example, the change in the index for calendar year 1974 would form the basis for how much the prevailing charge could increase July 1, 1975, over that effective during the previous fiscal year.

The regulations to implement provisions of section 224, the economic index, were not issued until April 14, 1975, nearly 2½ years after the provisions were enacted. HEW allowed only 30 days for interested

parties to comment on the complex index. This short comment period and the initial evaluations of the index generated such criticism that the regulations were the subject of hearings held by your committee's Subcommittee on Health on June 12, 1975. Nevertheless, the regulations were issued in final form on June 16, 1975, with no major changes.

Aside from the question of whether the design of the index is equitable and reflects congressional intent, its application has had an unintended and unanticipated effect. More than limiting increases in prevailing charges, the index is, in some cases, causing fiscal year 1976 prevailing charges to be rolled back below fiscal year 1975 prevailing charge levels. This means a beneficiary or a physician who was reimbursed \$20 for an office visit in fiscal year 1975 may get only \$15 in fiscal year 1976.

Preliminary results from a study by the Social Security Administration suggest that the fiscal impact of the economic index is over \$100 million. (Estimates on the savings of the index made in June were much lower—\$25 million.) Of the \$100 million, approximately \$37 million is due to rollbacks.

It should be pointed out that if HEW had not delayed so long in implementing the regulations there would not have been any rollbacks in prevailing charges.

Over the years, the rate at which physicians accept assignment of medicare patients (and thus accept the medicare reasonable charge as payment in full) has been steadily declining. Assignment rates (the percentage of claims which are accepted) decreased from 61.5 percent in 1969 to 51.9 percent in 1974. Your committee is particularly concerned that the rollbacks are further discouraging physicians from accepting assignment.

When a physician refuses to accept assignment, the beneficiary must, of course, make up any difference between what medicare reimburses as the reasonable charge and the physician's actual charge. Both the number of claims and the amount of reduction has been increasing as can be seen from the tables below:

NUMBER OF CLAIMS REDUCED ¹

	Numbers (millions)		Percentage	
	1973	1974	1973	1974
Total claims reduced.....	32.2	43.6	60.6	68.3
Assigned.....	15.8	21.5	55.6	64.5
Not assigned.....	16.4	22.2	66.4	72.7

¹ Those claims for which medicare allowed a reasonable charge less than the actual charge of the physician.

AMOUNT OF REDUCTION OF CLAIMS

	Amounts (millions)		Percentage	
	1973	1974	1973	1974
Total amount of reduction.....	\$446.5	\$665.8	12.3	14.5
Assigned.....	208.0	313.6	11.9	14.3
Not assigned.....	238.5	352.2	12.6	14.7

Source: "Quarterly Reports on SMI Carrier Charge Determination," May 23, 1974, and Feb. 25, 1975.

Clearly, the rollback will result in an even further decrease in the assignment rate with the consequence that beneficiaries will pay an even larger proportion of their medical bills out-of-pocket.

In testimony before your committee's Subcommittee on Health during the September 19 hearing, the administration acknowledged that there is indeed a rollback but suggested that it "will not reoccur in the future updates of prevailing charge screens." They did not indicate that they favor any measure to correct the existing rollback situation.

In view of the fact, however, that it was never intended that implementation of the economic index should have such an adverse effect on beneficiaries, your committee believes that legislation is needed to eliminate the rollbacks. The bill would provide that during fiscal year 1976 (when the index went into effect) no prevailing fee level for a physician's service would be less than the prevailing fee for the same service in fiscal year 1975.

In a case where a beneficiary or physician has already been affected by the rollback (i.e., he has been reimbursed in fiscal year 1976 for a particular service at a prevailing fee level which is less than the prevailing fee for the same service in fiscal year 1975), the carrier would pay the individual the amount he is due. The payment would be made as soon as is administratively possible, but all payments would be made within 6 months after the date of enactment of this provision. To make the retroactive reimbursement administratively practical, no payment would be made on any claim where the difference between the amount paid and the correct amount due is less than \$1.

Your committee believes that the problem of rollbacks in prevailing charge levels should be dealt with as quickly as possible to modify the current situation. Your committee wishes to make it clear, however, that it is holding for later consideration more substantive improvements in the present method for reimbursing physicians' services under medicare. Of major concern is the declining assignment rate (with the resulting increased burdens on medicare beneficiaries) and the inability of beneficiaries to determine which physicians will accept assignment and under what circumstances. Unreasonable geographical (both urban-rural and regional) and specialty differences in prevailing charge levels also indicate that the present system lacks rationality.

B. EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENTS FOR CERTAIN RURAL HOSPITALS

In order to participate in the medicare program, providers and suppliers of health services must comply with specific requirements set forth in the statute and with other requirements pertaining to the health and safety of medicare beneficiaries which the Secretary of Health, Education, and Welfare is authorized, by the statute, to prescribe. Among the "conditions of participation" for hospitals is a requirement that the hospital have an organized nursing department with a departmental plan delineating responsibilities and duties for nursing personnel, with a registered nurse on duty in the hospital on a 24-hour basis.

According to policy established by the Social Security Administration, a hospital is certified for participation in medicare if it is in full compliance (meets all the requirements of the Social Security Act

and is in accordance with all regulatory requirements for participation), or if it is in "substantial" compliance (meets all the statutory requirements and the most important regulatory conditions for participation). Thus, while an institution may be deficient with respect to one or more standards of participation, it may still be found to be in substantial compliance, if the deficiencies do not represent a hazard to patient health or safety, and efforts are being made to correct deficiencies.

In recognition of the fact that there is a need to assure continuing availability of medicare-covered institutional care in rural areas (many of which have only one hospital) without jeopardizing the health and safety of patients, the Social Security Administration follows the approach of certifying "access" hospitals which, to the extent they are capable, have succeeded in overcoming deficiencies. Access hospitals are those located in isolated areas or in areas with insufficient facilities, the failure of which to approve for medicare reimbursement would seriously limit the access of beneficiaries to needed inpatient care.

However, during the 91st Congress, it became apparent that some rural hospitals, despite proper efforts, were unable to secure required nursing personnel and were thus unable to meet the conditions of participation. Several hundred small rural hospitals at that time were not meeting the medicare requirement for these reasons and were unable to participate in the medicare program.

To deal with the dilemma created by the need to assure the availability of hospital services of adequate quality in rural areas and the fact that existing shortages of qualified nursing personnel were making it difficult for several hundred rural hospitals to meet the nursing staff requirements and come into compliance with the law, legislation (H.R. 19470, Public Law 91-690) was enacted to authorize the Secretary of HEW, under certain conditions, to waive the requirement that an access hospital have registered professional nurses on duty around the clock.

Under this amendment, the Secretary is given the authority, until December 31, 1975, to waive the nursing requirement if he finds that a hospital:

(a) has at least one registered nurse on the day shift and has made, and is continuing to make, a bona fide effort to comply with the registered nursing staff requirement with respect to other shifts (which, in the absence of an R.N., are covered by licensed practical nurses) but is unable to employ the qualified personnel necessary at prevailing wage or salary levels, because of nursing personnel shortages in the area;

(b) is located in an isolated geographical area in which hospitals are in short supply and the closest other participating hospitals are not readily accessible to people of the area; and

(c) nonparticipation of the access hospital would seriously reduce the availability of hospital services to medicare beneficiaries residing in the area.

Under the provision, the Secretary regularly reviews the situation with respect to each hospital, and waivers are granted on an annual basis for not more than one year at a time.

The waiver authority is applicable only with respect to the nursing staff requirement; no waiver authority is provided with respect to any other conditions of participation or any standards relating to health and safety. The temporary waiver provision is scheduled to expire at the end of this calendar year.

Your committee has noted that although several hundred small hospitals were affected by the nursing staff requirement when the waiver provision was first enacted in 1971, all but 72 hospitals in the United States are in compliance with the statutory requirement at this time. Further, a survey conducted by the Department of Health, Education, and Welfare this year indicates that nearly 65 percent of the hospitals affected have R.N. coverage for at least two shifts daily; and the hospitals have an average of over three R.N.'s on their staffs.

While emphasizing the importance of having registered nursing personnel on duty in hospitals at all times to insure quality of care, your committee recognizes that the number of hospitals not meeting the nursing staff requirement has dramatically decreased during the operation of the existing waiver provision and that failure to continue the provision could severely disadvantage medicare beneficiaries in these areas who would have to travel long distances to receive needed inpatient hospital care should the access hospital in their community become ineligible to participate in the medicare program. Your committee's bill, therefore, would authorize the Secretary of HEW, under the conditions specified in existing law, to continue for an additional three years until December 31, 1978, to waive the requirement that an access hospital have a registered professional nurse on duty 24 hours a day.

Your committee believes that the favorable trend during the last five years whereby most access hospitals have come into compliance with the statutory requirement that a registered nurse be on duty at all times will continue and that there eventually will be no hospitals who must operate under the waiver provision. Your committee has requested the Department of HEW to arrange for the conduct of an independent study of the status of the hospitals still affected by the waiver and report their findings to the Committee on Ways and Means and the Senate Finance Committee by July 1, 1977 (18 months from the beginning of the extension of the waiver), setting forth the Department's recommendations with respect to future legislative action.

C. RELATIONSHIP BETWEEN MEDICARE AND FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

The statute (section 1862(c) of the Social Security Act) calls for medicare to stop making payment, as of January 1, 1976, for services furnished to a beneficiary for which he also has coverage under the Federal Employees' Health Benefits (FEHB) program. The January 1, 1976, deadline is the result of a provision, originated by the Committee on Ways and Means, that was included in the 1972 Social Security Amendments (Public Law 92-603). It was designed to focus attention on the need to consider improved coordination of medicare and the FEHB program.

Many Federal employees and retirees over 65 have worked long enough in employment covered by social security to become insured for benefits under part A of medicare. (Part B is available to everyone over age 65 except recent immigrants.) The Civil Service Commission estimates that by June 1976 about 258,000 FEHB enrollees, or 50 percent of the enrollees age 65 and over, and 150,000 dependents will be covered by medicare part A.

At present, when a person who has such dual entitlement receives health care, medicare acts as the primary insurer and makes payment first for the covered services; thereafter, the FEHB plan in which the person is enrolled makes payment, but only to the extent that medicare has not already paid for the services covered by the FEHB plan. Although medicare thus bears a major share of the dually entitled person's health care costs, the person pays the same FEHB premium as people not entitled under medicare.

Because of overlapping benefits, many Federal employees and retirees age 65 and over have not found it advantageous to enroll in medicare part B. As a result, they do not benefit from the general revenue contribution (equalling more than half of the program's cost) which is available to all who enroll in part B.

Section 210 of Public Law 92-603 (October 30, 1972) amended title XVIII of the Social Security Act by adding a new subsection 1862(c) prohibiting payment by medicare, on or after January 1, 1975, for any item or service covered by an FEHB plan in which the medicare beneficiary was enrolled, unless prior to that date the Secretary of HEW was able to certify that the individual FEHB plan in question or the entire FEHB program had been modified in specified ways. The intent of this provision was described in the report of the Committee on Ways and Means as "to assure a better coordinated relationship between the FEHB program and medicare and to assure that Federal employees and retirees age 65 and over will eventually have the full value of the protection offered under medicare and FEHB."

To comply with this provision, the modifications in FEHB would have had to assure the following:

1. That one or more FEHB plans supplementing medicare protection are available to each Federal employee or retiree who is entitled to medicare parts A or B, or both A and B, and

2. That the Government or the FEHB plan will make available to each such individual a contribution at least equal to the contribution the Government makes toward the high-option coverage of any enrollee in the Government-wide FEHB plans. This contribution could be in the form of (a) a contribution toward the individual's FEHB protection supplementing medicare, or (b) a payment to offset the premium cost of part B of medicare, or (c) a combination of the two.

In the fall of 1974, when it became apparent that not enough progress toward coordination had been made to permit the requirements of subsection 1862(c) to be complied with by January 1, 1975, the effective date was extended for 1 year, to January 1, 1976, by Public Law 93-480 (October 26, 1974). The extension was conditional upon submission, no later than March 1, 1975, by the Department of HEW and the Civil Service Commission of a progress report

(in the absence of which the effective date would have been July 1, 1975).

The report jointly submitted by the DHEW and the CSC pursuant to Public Law 93-480 pointed out a number of problems that it said would result from efforts to comply with all the requirements of section 1862(c), and proposed instead an alternative plan for coordination of the medicare and FEHB programs that would require amendment of both the medicare law and the FEHB Act.

Under the proposal, an FEHB medicare supplement option would be made available where the FEHB enrollee or a member of his family is covered by both parts A and B of medicare. The Government would pay 100 percent of the premium for this medicare supplement so long as this did not exceed the maximum dollar amount the Government pays with respect to other FEHB enrollees. For at least the first year, the enrollee would not have to pay any premium. The supplement, together with medicare, would cover up to 100 percent of expenses for a medicare beneficiary; for other family members, the regular high-option benefits of the FEHB plan would be provided.

The increased cost of this proposal to the Government is estimated for calendar year 1976 as \$48 million (\$39 million in increased FEHB contributions, and \$9 million in increased general revenue contributions for medicare part B which would result from increased enrollment in part B by FEHB enrollees). Also, an additional \$13 million in increased premiums would be paid by nonmedicare FEHB enrollees (their premiums would no longer reflect the reduction in FEHB program costs that results because medicare makes payment first for FEHB enrollees who have medicare coverage).

Your committee has carefully considered this proposal by the administration as well as an alternative suggested in a report by the Comptroller General on the coordination issue—that the Government simply pay medicare part B premiums for all eligible FEHB enrollees. (The Comptroller General's report also suggested consideration of continuing without change the existing system for coordinating the benefits of the two programs.) The substantial costs of these proposals need to be weighed against the increased benefit protection or improved equity they would provide for people covered under both FEHB and medicare.

In general, the medicare supplements provided under FEHB today are richer than those offered to medicare beneficiaries under group health insurance plans in private industry. The coordination methods used by the various FEHB plans differ, but in general, after medicare makes payment, the FEHB plan pays for the services it covers in an amount that ordinarily will result in full coverage of most of the charges. Usually, enrollment in the low option of an FEHB plan (rather than the more costly high option) will achieve this result. The CSC has been advising medicare beneficiaries, during FEHB open enrollment periods, that low-option plans will in most cases adequately supplement both parts of medicare at lower cost than the high option.

Since section 1862(c) was enacted, the standard Government contribution toward FEHB premiums has increased from 40 to 60 percent of the total premium, and proposals have been made to increase the Government contribution again in future years. Medicare bene-

ficiaries, as well as other FEHB enrollees, have benefited from this increased contribution.

Although it can be argued that more generous provisions than now exist for coordination of FEHB and medicare are merited, your committee is not convinced that equity requires the Government to substantially increase its expenditures under the two programs in an effort to accomplish this. It should be noted that Federal employees who have acquired medicare insured status have generally done so by splitting their careers between Federal and private employment or by moonlighting, rather than through a lifetime of work covered under social security. Some offsetting of the benefits of one program against the other, such as now exists, seems justified in view of the major contributions the Government makes toward the financing of both programs.

Your committee has therefore concluded that the existing relationship between the medicare and FEHB programs should be maintained. Accordingly, the bill would repeal section 1862(c) of the Social Security Act.

D. MEDICARE PART B PREMIUM

The current monthly premium charged for part B of medicare is permanently frozen at \$6.70 (the same amount as for last year) because of a technical error in the law that prevents the premium from being increased even though the Congress clearly intended to permit increases on July 1 of each year. The intention was to permit premium increases corresponding with increases in program costs, but limited to a maximum percentage increase no greater than the percentage by which monthly social security benefits have increased during the year.

Part B of medicare—the voluntary medical insurance part of the medicare program covering physicians' and certain other health services—has since its inception been financed through a combination of monthly premiums paid by beneficiaries who choose to enroll and matching payments from Federal general revenues. For the great majority of beneficiaries, the medicare premium is deducted each month from the social security benefit check.

The amount of the premium is determined through a calculation that begins with the cost of providing part B protection to beneficiaries age 65 and over. The premium was originally designed to equal one-half of this cost, but subsequent legislation enacted in 1972 limited the maximum premium increase each year to the percentage by which monthly social security benefits increased. (Beneficiaries under age 65 who are covered by part B by virtue of their status as social security disability beneficiaries or as end-stage renal disease patients pay the same premium as the aged, even though the cost of providing benefits to them is far greater.)

The technical error, freezing the premium, occurred when Public Law 93-233, enacted December 31, 1973, modified the schedule for automatic increases in social security cash benefits, but unintentionally failed to make corresponding changes in the provisions that relate percentage increases in the medicare part B premium to increases in cash benefits. Federal general revenues are used to finance whatever part of the cost of part B is not met through premiums paid by beneficiaries. So long as the premium amount remains frozen, the

proportion of part B costs financed by general revenues will continue to rise.

Your committee recognizes that many people would prefer not to allow the part B premium to increase at a time when the elderly, as well as others, are feeling the effects of inflation in health care costs. Failure to increase the premium, however, results in millions of dollars of increased general revenue expenditures in future years. If such amounts were to be expended, the money might better be used to provide some improvement in benefit protection.

The burden of the increased premiums would be spread evenly among all enrollees in part B, and spread throughout the year in even monthly installments. This seems preferable to alternative ways of controlling medicare outlays and general revenue costs, such as the increases in deductible and coinsurance amounts that the Administration has suggested. The burden of those increases would fall unevenly upon part E beneficiaries and tend to hit hardest the people who could least afford them.

Your committee's bill would correct the technical error in the law by changing from June 1 to May 1 the date used in determining the percentage increase from one year to the next in social security benefit levels, to arrive at the maximum percentage by which the medicare premium may be increased. The premium increase would be determined and promulgated in December of each year as under present law and the increased premium would be deducted from the same benefit check that reflects a cash benefit increase under the provisions for automatic increases in social security benefits. Thus, as intended by the Congress in enacting Public Law 93-233, premium increases would not result in reducing the amount of the monthly checks received by beneficiaries (because both a benefit increase and a very much smaller premium increase would be reflected in the same check).

Because of the technical error, the monthly premium has remained at \$6.70 for the 12-month period beginning July 1, 1975, instead of increasing. The committee bill would not attempt to "catch up" by permitting 2 years' worth of benefit increases to be reflected in the single increase for the year beginning July 1, 1976. Instead, that premium increase would reflect only 1 year's increase in social security cash benefits.

Thus, the present \$6.70 premium would go up only 50 cents on July 1, 1976, the same date that the social security benefit checks will be increased by reason of the automatic cost-of-living provisions in title II of the Social Security Act. Current estimates are that cash social security benefits will be increased by about 7 percent for the checks that are mailed early in July. The minimum dollar increase would be several times the 50-cent increase in the premium which is deducted from the same check in which the general benefit increase appears.

E. COMMITTEE JURISDICTION

In connection with any possible jurisdictional points which might be made about your committee's bill the following exchange of correspondence is included in this report.

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., October 28, 1975.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce, U.S. House
of Representatives.*

DEAR MR. CHAIRMAN: On October 22, the Subcommittee on Health of the Committee on Ways and Means approved for consideration of the full Committee a bill, H.R. 10284, whose four provisions amending title XVIII of the Social Security Act are designed solely to respond to several deadline-type situations under the medicare program.

One of these provisions, for example, involves coordination between medicare and the Federal Employees' Health Benefits (FEHB) Program. Failure to enact it will require FEHB premiums to be increased substantially, and because the bill is pending, the annual November FEHB open enrollment period will be delayed or extended. Our Subcommittee on Health approved the bill unanimously, and I think it reasonable to expect that the full Committee on Ways and Means will do so also.

Although, with regard to some portions of the medicare law, questions have been raised concerning the jurisdiction of our respective committees, I hope those questions can be held in abeyance and not delay consideration of this particular bill which involves these deadline situations. Prompt passage by the House of Representatives is essential if the Senate is to have sufficient time for its action to meet the forthcoming deadlines.

If, upon your examination of H.R. 10284, you find no objection to its provisions, it would be most helpful if you could so advise me by letter. Such a letter, leaving any question of jurisdiction for later resolution, would facilitate the necessary prompt consideration of H.R. 10284 by the House. We hope to take up the bill before the full Committee early next week.

Sincerely,

AL ULLMAN. *Chairman.*

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 29, 1975.

HON. AL ULLMAN,
*Chairman, Committee on Ways and Means, U.S. House of Representa-
tives, Washington, D.C.*

DEAR CHAIRMAN ULLMAN: Thank you for your letter of October 28 concerning H.R. 10284 whose four provisions amend title XVIII of the Social Security Act to allow continued use of the present system of coordination between Medicare and the Federal employees health benefits program, extend for three years the present waiver for rural hospitals of requirements for around-the-clock registered nursing services, correcting a technical error respecting Part B premiums, and amends the prevailing charge provisions to prevent cutbacks in prevailing fees in 1976.

Several of these amendments affect the supplemental medical insurance program (Part B of Medicare), which in my judgment is properly in the jurisdiction of this Committee for the reasons explained in the attached correspondence. However, I have reviewed the content of H.R. 10284 and agree with you that it is reasonable and noncontroversial legislation which needs rapid enactment because of deadlines in the Social Security Act to which it responds. I would, therefore, like you to know I will not object to its further consideration in the Committee on Ways and Means, the Committee on Rules, or the House of Representatives. You should understand that I do this without prejudice to further consideration of the question of jurisdiction over the various parts of the Medicare program, holding that question in abeyance for later resolution. In the event of Senate amendments to the bill, I will let you know what role I feel Members of this Committee should play in their consideration after I have had the opportunity to examine them. In order to forestall any possible confusion, I think it would be appropriate for this correspondence, with attachments, to appear in the report of your Committee on H.R. 10284.

I congratulate you on your efforts and hope that we may cooperate further in the future in improving the nation's health.

Sincerely yours,

HARLEY O. STAGGERS, *Chairman.*

III. COSTS OF CARRYING OUT THE BILL AND EFFECT ON THE REVENUES

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made:

Section 4 of your committee's bill makes a technical amendment relating to premium determinations under part B of the medicare program. The increased premiums permitted by section 4 generate additional revenue for the financing of part B and produce a corresponding reduction in expenditures that would otherwise, pursuant to law, be financed out of Federal general revenues. The estimated reductions in general revenue outlays are shown below:

Medicare part B premium—Reduction in general revenue outlays resulting from correction of technical error

[In millions of dollars]

Fiscal years:

Transitional fiscal period (July 1, 1976 through Sept. 30, 1976).....	\$36
1977.....	184
1978.....	329
1979.....	456
1980.....	588
1981.....	725

Administration estimates of the anticipated savings in fiscal year 1976 from the application of the economic index were \$25 million. Current data suggest the savings will exceed \$100 million, of which \$37 million is attributable to the rollback. Thus, the net cost for the remainder of fiscal year 1976 of section 1 of the bill, which would preclude the rollbacks of prevailing fees, will be \$37 million, although savings from the application of the index will still be far in excess of original administration estimates.

IV. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill. The bill was *unanimously* ordered favorably reported by your committee.

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As a result of hearings conducted in March, June, and September of this year, by the Subcommittee on Health, your committee concluded that it would be desirable to enact legislation changing the present medicare law as is done in H.R. 10284.

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, your committee states that the changes made in present law by this bill involve no new budgetary authority or new or increased tax expenditures.

With respect to clause 2(l)(3)(C) and clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, your committee advises that no estimate or comparison has been submitted to your committee by the Director of the Congressional Budget Office relative to H.R. 10284, nor have any oversight findings or recommendations been submitted to your committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, your committee states that the four changes made in title XVIII of the Social Security Act under this bill would not have an inflationary impact on prices and costs in the operation of the national economy. Section 2 and section 3 would merely continue provisions of existing law. Section 4 would correct a technical error in the medicare law to again allow the Secretary of Health, Education, and Welfare to make necessary adjustments in the part B premium. Any adjustments made pursuant to this section would not increase the overall cost of the program and thus would not have an inflationary effect on the operation of the national economy. Section 1 would, for fiscal year 1976, assure that prevailing fees recognized by medicare are not reduced below the levels for fiscal year 1975. Since this provision will not affect how much is charged for specified services but only what portion will be recognized as reimbursable by medicare, it will not have an inflationary impact.

V. SECTION-BY-SECTION ANALYSIS AND JUSTIFICATION OF THE BILL

SEC. 1. PREVAILING CHARGE LEVEL FOR FISCAL YEAR 1976

Analysis.—Section 1(a) assures that no fiscal year 1976 prevailing charge for a physician service in a particular locality determined for the purposes of part B of medicare will be less than the same prevailing charge in the same locality in fiscal year 1975 because of application of economic index data.

Section 1(b) provides that if a beneficiary or physician received less than the correct amount on claims processed prior to the enactment of this section due to application of economic index data, the carrier shall pay the additional amount due within such time (but not exceeding 6 months) as is administratively feasible. No payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than \$1.00.

Justification.—This section is necessary to protect beneficiaries and physicians against an unintended result of the use of an economic index to limit how much prevailing charges can increase from year to year. Those situations would be corrected where application of the index has resulted in the determination of a prevailing charge for a physician service in fiscal year 1976 which is less than the prevailing charge for the same service in fiscal year 1975.

As prompt a refund as possible on an administratively practical basis would be assured for those physicians and beneficiaries who, under the provisions of this section, did not receive the correct amount of reimbursement. The \$1.00 minimum payment provision is necessary to avoid incurring heavy administrative costs in making payments for very insignificant amounts.

SEC. 2. EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENT FOR CERTAIN RURAL HOSPITALS

Analysis.—Section 2 of the bill amends section 1861(e)(5) of the Social Security Act to extend from January 1, 1976, to January 1, 1979, the period during which the Secretary of Health, Education, and Welfare is authorized to grant temporary waivers of nursing staff requirements to permit certain hospitals which have had difficulty in securing required nursing services to continue to participate in the medicare program under specified conditions.

Justification.—Seventy-two hospitals currently participate in the medicare program under a waiver of the statutory requirement that requires a hospital to have at least one registered nurse on duty on a 24-hour basis. The extension of the waiver for an additional three years will provide these small rural hospitals an additional period of time to come into full compliance with the nursing standards.

SEC. 3. COORDINATION BETWEEN MEDICARE AND FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

Analysis.—Section 3 of the bill repeals section 1862(c) of the Social Security Act. Under section 1862(c), unless the Secretary of Health, Education, and Welfare has certified that the Federal Employees' Health Benefits (FEHB) program has been modified in specified ways, medicare will cease making payment on January 1, 1976, for any otherwise covered item or service with respect to which the beneficiary also has coverage under an FEHB plan.

Justification.—Deletion of this prohibition against medicare payment reflects a decision (discussed in detail in section II of this report) that the existing system of coordinating medicare and FEHB benefits should be continued.

SEC. 4. TECHNICAL AMENDMENT RELATING TO PART B PREMIUM
DETERMINATIONS

Analysis.—Effective for determinations made after the enactment of the bill, section 4 amends section 1839(c)(3) of the Social Security Act to change from June 1 to May 1 the date that is used in determining the percentage increase over the course of a year in social security cash benefits for the purpose of determining each year the maximum percentage increase that will be permitted in the monthly premium for part B of medicare—the voluntary medical insurance part of medicare covering physicians' and certain other health services.

Justification.—This section corrects a technical error in the law that prevents premiums under part B of medicare from being increased, even though the Congress clearly intended to permit increases on July 1 of each year, corresponding with increases in costs of the program, but limited to a maximum increase no greater than the percentage by which monthly social security benefits increase during the year.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL,
AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * *

TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * *

PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE
AGED AND DISABLED

* * * * *

AMOUNTS OF PREMIUMS

SEC. 1839. (a) * * *

* * * * *

(c) (1) * * *

* * * * *

(3) The Secretary shall, during December of 1972 and of each year thereafter, determine and promulgate the monthly premium applicable for the individuals enrolled under this part for the 12-month period commencing July 1 in the succeeding year. The monthly premium shall be equal to the smaller of—

(A) the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that 12-month period, or

(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph or, in the case of the determination made in December 1971, such rate promulgated under subsection (b)(2) multiplied by the ratio of (i) the amount in column IV of the table which, by reason of the law in effect at the time the promulgation is made, will be in effect as of **[June]** May 1 next following such determination appears (or is deemed to appear) in section 215(a) on the line which includes the figure "750" in column III of such table to (ii) the amount in column IV of the table which appeared (or was deemed to appear) in section 215(a) on the line which included the figure "750" in column III as of **[June]** May 1 of the year in which such determination is made.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

* * * * *

USE OF CARRIERS FOR ADMINISTRATION OF BENEFITS

SEC. 1842. (a) In order to provide for the administration of the benefits under this part with maximum efficiency and convenience for individuals entitled to benefits under this part and for providers of services and other persons furnishing services to such individuals, and with a view to furthering coordination of the administration of the benefits under part A and under this part, the Secretary is authorized to enter into contracts with carriers, including carriers with which agreements under section 1816 are in effect, which will perform some or all of the following functions (or, to the extent provided in such contracts, will secure performance thereof by other organizations); and, with respect to any of the following functions which involve payments for physicians' services on a reasonable charge basis, the Secretary shall to the extent possible enter into such contracts:

(1) (A) make determinations of the rates and amounts of payments required pursuant to this part to be made to providers of services and other persons on a reasonable cost or reasonable charge basis (as may be applicable);

(B) receive, disburse, and account for funds in making such payments; and

(C) make such audits of the records of providers of services as may be necessary to assure that proper payments are made under this part;

(2) (A) determine compliance with the requirements of section 1861(k) as to utilization review; and

(B) assist providers of services and other persons who furnish services for which payment may be made under this part in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, assist in the application of safeguards against unnecessary utilization of services furnished by providers of serv-

ices and other persons to individuals entitled to benefits under this part, and provide procedures for and assist in arranging where necessary, the establishment of groups outside hospitals (meeting the requirements of section 1861(k)(2)) to make reviews of utilization;

(3) serve as a channel of communication of information relating to the administration of this part; and

(4) otherwise assist, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of this part.

(b)(1) Contracts with carriers under subsection (a) may be entered into without regard to section 3709 of the Revised Statutes or any other provision of law requiring competitive bidding.

(2) No such contract shall be entered into with any carrier unless the Secretary finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(3) Each such contract shall provide that the carrier—

(A) will take such action as may be necessary to assure that, where payment under this part for a service is on a cost basis, the cost is reasonable cost (as determined under section 1861(v));

(B) will take such action as may be necessary to assure that, where payment under this part for a service is on a charge basis, such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier, and such payment will (except as otherwise provided in section 1870(f)) be made—

(i) on the basis of an itemized bill; or

(ii) on the basis of an assignment under the terms of which (I) the reasonable charge is the full charge for the service (except in the case of physicians' services and ambulance service furnished as described in section 1862(a)(4), other than for purposes of section 1870(f) and (II) the physician or other person furnishing such service agrees not to charge for such service if payment may not be made therefor by reason of the provisions of paragraph (1) of section 1862, and if the individual to whom such service was furnished was without fault in incurring the expenses of such service, and if the Secretary's determination that payment (pursuant to such assignment) was incorrect and was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such deduction is consistent with the objectives of this title;

but (in the case of bills submitted, or requests for payment made, after March 1968) only if the bill is submitted, or a written request for payment is made in such other form as may be permitted under regulations, no later than the close of the calendar year following the year in which such service is furnished (deeming any service furnished in the last 3 months of any calendar year to have been furnished in the succeeding calendar year);

(C) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the carrier, in any case where the amount in controversy is \$100 or more when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness or when the amount of such payment is in controversy;

(D) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part; and

(E) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part;

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

No charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (i) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (ii) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made. In the case of physician services the prevailing charge level determined for purposes of clause (ii) of the preceding sentence for any fiscal year beginning after June 30, 1973, may not exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economics index data, that such higher level is justified by economic changes. In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under the circumstances specified by the Secretary. The requirement in subparagraph (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or

misrepresentation is eliminated or corrected. *Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.*

* * * * *

PART C—MISCELLANEOUS PROVISIONS

DEFINITION OF SERVICES, INSTITUTIONS, ETC.

SEC. 1861. For purposes of this title—

Spell of Illness

(a) * * *

* * * * *

Hospital

(e) The term “hospital” (except for purposes of sections 1814(d), 1814(f) and 1835(b), subsection (a)(2) of this section, paragraph (7) of this subsection, and subsections (i) and (n) of this section) means an institution which—

(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) maintains clinical records on all patients;

(3) has bylaws in effect with respect to its staff or physicians;

(4) has a requirement that every patient must be under the care of a physician;

(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times except that until January 1, [1976] 1979, the Secretary is authorized to waive the requirement of this paragraph for any one-year period with respect to any institution, insofar as such requirement relates to the provision of twenty-four-hour nursing service rendered or supervised by a registered professional nurse (except that in any event a registered professional nurse must be present on the premises to render or supervise the nursing service provided, during at least the regular daytime shift), where immediately preceding such one-year period he finds that—

(A) such institution is located in a rural area and the supply of hospital services in such area is not sufficient to meet the needs of individuals residing therein,

(B) the failure of such institution to qualify as a hospital would seriously reduce the availability of such services to such individual, and

(C) such institution has made and continues to make a good faith effort to comply with this paragraph, but such compliance is impeded by the lack of qualified nursing personnel in such area;

(6) has in effect a hospital utilization review plan which meets the requirements of subsection (k);

(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing;

(8) has in effect an overall plan and budget that meets the requirements of subsection (z); and

(9) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of the individuals who are furnished services in the institution.

* * * * *

EXCLUSIONS FROM COVERAGE

SEC. 1862. (a) * * *

* * * * *

[(c) No payment may be made under this title with respect to any item or service furnished to or on behalf of any individual or on after January 1, 1976, if such item or service is covered under a health benefits plan in which such individual is enrolled under chapter 89 of title 5, United States Code, unless prior to the date on which such item or service is so furnished the Secretary shall have determined and certified that such plan or the Federal employees health benefits program under chapter 89 of such title 5 has been modified so as to assure that—

[(1) there is available to each Federal employee or annuitant enrolled in such plan, upon becoming entitled to benefits under part A or B, or both parts A and B of this title, in addition to the health benefits plans available before he becomes so entitled, one or more health benefits plans which offer protection supplementing the protection he has under this title, and

[(2) the Government or such plan will make available to such Federal employee or annuitant a contribution in an amount at least equal to the contribution which the Government makes toward the health insurance of any employee or annuitant enrolled for high option coverage under the Government-wide plans established under chapter 89 of such title 5, with such contribution being in the form of (A) a contribution toward the supplementary protection referred to in paragraph (1), (B) a payment to or on behalf of such employee or annuitant to offset the cost to him of his coverage under this title, or (C) a combination of such contribution and such payment.]

* * * * *

Report of the Committee on
Finance, to accompany
H.R. 10284, Senate Report
No. 94-549.

AMENDING TITLE XVIII OF THE SOCIAL SECURITY ACT

DECEMBER 12, 1975.—Ordered to be printed

Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 10284]

The Committee on Finance, to which was referred the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal employees' health benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

I. SUMMARY OF THE BILL

H.R. 10284 as passed by the House contained provisions relating to prevailing charges, nursing requirements in rural hospitals, the relationship between medicare and the Federal employee health program, and the medicare part B premium. The committee amendment incorporates these provisions, with some modifications, and adds a number of new provisions.

PREVAILING CHARGE DETERMINATIONS UNDER MEDICARE

Due to the late issuance of regulations implementing the provision in law intended to limit increases in physicians' prevailing fees from year-to-year, some physicians' fees have unintentionally been rolled back to a point below their previous level. The first provision of the House bill would assure that no prevailing charge in fiscal year 1976 is less than it was in fiscal year 1975. The committee amendment modi-

fies the House provision to indicate that, in calculating the index by which physicians' prevailing fees can increase, the Department should include, to the extent feasible, factors related to any increases in costs of malpractice insurance and that index calculations should be prepared on a regional rather than a national basis.

WAIVER OF 24-HOUR NURSING REQUIREMENTS FOR CERTAIN RURAL HOSPITALS

The second provision of the House bill extends for 3 years (until December 31, 1978) the Secretary's authority to grant temporary waivers of nursing staff requirements in hospitals located in areas where nurses are in short supply and other hospitals are not readily accessible. The committee amendment provides instead for a 1-year extension of the waiver authority.

RELATIONSHIP BETWEEN MEDICARE AND FEDERAL EMPLOYEES HEALTH BENEFIT PROGRAM

The House bill would repeal a provision of Public Law 92-603 which provides that, unless the Federal employees' health program were rewritten to provide supplementary benefits to those older or retired Federal employees who also have medicare eligibility, the medicare program would no longer serve as the primary payer of benefits. The committee amendment incorporates this change, so that the medicare program would continue as the primary payer of benefits without requiring any change in the Federal employees' program.

MEDICARE PART B PREMIUM

The fourth provision of the House bill, included in the committee amendment, would correct a drafting error in Public Law 93-233 which, in modifying the social security cash benefit provision, had unintentionally failed to make corresponding changes allowing for annual changes in the part B medicare premium. The provision would correct this drafting error and permit adjustments in part B premiums on July 1, 1976 and in future years at rates no greater than the percentage rate of increase in cash social security benefits.

In addition, the committee amendment includes the new provisions described below.

PROFESSIONAL STANDING REVIEW ORGANIZATIONS (PSRO) AREA DESIGNATIONS

The committee amendment provides that in those States (1) which have been divided into more than one PSRO area, and (2) in which no conditional PSRO's have been designated, the Secretary would poll the physicians in each designated area as to their preference for a local or statewide PSRO. If a majority of physicians in each currently designated PSRO area in that State approved a statewide PSRO, the Secretary would redesignate that State as a single area.

PSRO DIRECT UTILIZATION REVIEW ACTIVITIES

The committee amendment also contains a provision aimed at equalizing the reimbursement for utilization review activities where they

are carried out by a hospital under delegation from a PSRO or by the PSRO itself. Under current law, utilization review expenditures are reimbursable by medicare for delegated review. Under this provision, utilization review expenses of the PSRO in carrying out nondelegated review would also be reimbursable through medicare benefit payments.

MEDICARE PAYMENTS TO VETERANS' ADMINISTRATION HOSPITALS IN CASE OF "GOOD FAITH" ERROR

Under this committee provision, the medicare program would be authorized to pay for care rendered to a medicare-eligible patient in a Veterans' Administration hospital if the patient had entered the hospital and the hospital had accepted the patient under the belief that he was eligible for veterans' benefits, and it was later determined that he was not eligible.

UPDATING OF THE LIFE SAFETY CODE REQUIREMENTS APPLICABLE TO SKILLED NURSING FACILITIES

The next committee provision would update the current requirements for skilled nursing facilities under the medicare and medicaid programs by replacing the current requirement that such facilities meet the provisions of the 1967 Life Safety Code with a requirement that they meet the conditions of the 1973 edition of the code. The provision would also assure that facilities currently qualified under the 1967 code, or State codes which are approved by the Secretary, would not lose their eligibility for participation in the programs.

GRANTS TO DEMONSTRATE APPROPRIATE MECHANISMS FOR CAPITATION PAYMENTS

Another committee provision would remove a technical barrier to the Secretary's approval of a grant to the Sacramento Medical Care Foundation which is aimed at obtaining data to assist the Department in developing appropriate reimbursement mechanisms for health maintenance organizations.

OCCUPATIONAL THERAPY UNDER MEDICARE

The committee amendment includes a provision to expand coverage of occupational therapy services under the medicare program to cover such services when they are provided through clinics, rehabilitation agencies and other organized settings. The provision also allows patients to qualify for home health services on the basis of a need for occupational therapy services alone.

FOOD STAMP PURCHASES BY WELFARE RECIPIENTS

Another provision of the committee amendment to H.R. 10284 relates to food stamps. Agriculture Department regulations scheduled to go into effect in January 1976 will require welfare agencies in all States to allow recipients of Aid to Families with Dependent Children (AFDC) to purchase food stamps through a withholding procedure. The price of the stamps would be deducted from the AFDC check and the stamps themselves would be mailed with the check. Current law requires the Department to impose this procedure on the States on a mandatory basis even though a significant number of States

believe that the adoption of this procedure will create severe problems of administration. The committee amendment will allow each State to decide whether or not to use this method of distributing food stamps to welfare recipients.

II. GENERAL EXPLANATION OF THE BILL

PREVAILING CHARGE DETERMINATIONS UNDER MEDICARE

(Section 1 of the Bill)

The committee concurs in the House provision to avoid any rollback in allowable medicare fees which have occurred in fiscal year 1976. In addition, the committee is concerned that the administrative policies that HEW has adopted to carry out the economic index provisions do not conform to the legislative intent and result in reasonable charge ceilings which may unfairly benefit individuals in some areas while disadvantaging others. The legislative history of the 1972 amendments clearly intended that indexes be calculated separately for "areas of a size and nature permitting proper calculation and determination of the types required to adjust prevailing charge levels." The objective of requiring at least regional indices was to assure that changes in office practice costs (including malpractice premiums) and general earnings levels that take place in varying areas, be reflected in the ceilings placed by the index or increases in physicians' allowable fees.

Nevertheless, HEW regulations provide for the establishment of a single, national index applicable to all physicians. Therefore, the committee has included in the bill a provision requiring the Secretary of HEW to submit a report to the Finance Committee and to the House Committee on Ways and Means explaining why it has not complied with the legislative intent by establishing separate indices on other than a national basis (certainly in at least 10 regions) and the steps that the Department is presently taking to conform to the legislative intent. If necessary, the committee would expect the Department to include in its report any recommendations as to remedial legislation which might be necessary to further implement congressional intent with respect to this provision. The report would be due 90 days after the date of enactment.

The committee has also noted that HEW has based the earnings component of the index on changes in the earnings of production and non-supervisory workers. The committee expects that social security data be used to measure changes in general earnings levels because social security covers substantially all wage earners and self-employed people. The choice of the more limited data by HEW makes the index non-representative of the earnings level of the general population. The report from the Secretary of HEW will also explain its choice of data on earnings and the steps it is taking to make the data base more representative.

EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENTS FOR CERTAIN RURAL HOSPITALS

(Section 2 of the Bill)

In order to participate in the medicare program, providers and suppliers of health services must comply with specific requirements

set forth in the statute and with other conditions pertaining to the health and safety of medicare beneficiaries which the Secretary of Health, Education, and Welfare is authorized, by statute, to prescribe.

According to policy established by the Social Security Administration, a hospital is certified for participation in medicare if it meets all of the statutory requirements and is in "substantial" compliance with all regulatory requirements. Thus, while an institution may be deficient with respect to one or more regulatory requirements, it still may be found to be in substantial compliance, if the deficiencies do not represent a hazard to patient health and safety, and efforts are being made to correct the deficiencies.

In recognition of the fact that there is a need to assure continuing availability of medicare-covered institutional care in rural areas (many of which have only one hospital) without jeopardizing the health and safety of patients, the Social Security Administration follows the approach of certifying "access" hospitals which, to the extent they are capable have succeeded in overcoming deficiencies. Access hospitals are those located in isolated areas or in areas with insufficient facilities, the failure of which to approve for medicare reimbursement would seriously limit the access of beneficiaries to needed in-patient care.

However, during the 91st Congress, it became apparent that several hundred rural hospitals, despite proper efforts were unable to secure required nursing personnel and were thus unable to meet the statutory requirement for 24-hour registered nurse coverage.

To deal with the dilemma created by the need to assure the availability of hospital services of adequate quality in rural areas and the fact that existing shortages of qualified nursing personnel were making it difficult for several hundred rural hospitals to meet the nursing staff requirements and come into compliance with the law, legislation (H.R. 19470, Public Law 91-690) was enacted to authorize the Secretary of HEW, under certain conditions, to waive the requirement that an access hospital have registered professional nurses on duty around the clock.

Under this amendment, the Secretary is given the authority, until December 31, 1975, to waive the nursing requirement if he finds that:

(a) the hospital is located in a rural area and the supply of hospital services in the area is not sufficient to meet the needs of medicare beneficiaries residing therein;

(b) the failure of the institution to qualify as a hospital would seriously reduce the availability of services to beneficiaries; and

(c) the hospital has made and continues to make a good faith effort to comply with the nurse staffing requirement, but compliance is impeded by the lack of qualified nursing personnel in the area.

While the House report notes that there has been considerable progress in reducing the number of "waivered" hospitals (presently 90), there are approximately 40 additional rural hospitals, while able to meet the statutory nurse staffing requirement, have major regulatory deficiencies. Such hospitals are also certified as "access" hospitals.

Based upon a 1974 study funded by the Department of Health, Education, and Welfare, besides those formally identified access hospitals, there are approximately another 400 rural hospitals with essentially

the same attributes, which have managed to meet certification requirements either through extraordinary efforts by the hospital or through lenient application of standards by the medicare surveyors.

Further, with respect to the specific problem of nurse staffing, there are indications in some States of licensure requirements which may tend to restrict the flow of nurses into shortage areas. For example, in one State, where approximately 50 percent of the "waivered" hospitals are located, the requirements for nurse licensure include, among other things, graduation from an accredited program in professional nursing of at least 2 *calendar* years in length. It is important to note that, of the 574 accredited associate degree programs in the United States, 486 are programs of 2 *academic* years. Accordingly, the State is able to draw from less than 20 percent of the schools which offer associate degrees in nursing. It appears inconsistent to the committee for a State with an identified nurse shortage to have, at the same time, what may be questionable licensure barriers against increasing the supply of nurses.

In the opinion of the committee, the inability to attract qualified nursing personnel is only one of several problems facing rural hospitals in providing health care services. Accordingly, the committee feels that there should be a review of all the conditions of participation imposed upon rural hospitals, as well as barriers to the flow of nurses into shortage areas.

Inasmuch as the Department of HEW completed an in-depth study of access hospitals in June, 1974, the committee feels that a further study as requested in the House report is unnecessary at this time, and that a 3-year extension of the waiver authority as provided for in the bill would serve to delay a more permanent solution to the access hospital problem. The committee has therefore approved a 1-year extension of the waiver authority and has asked committee staff to work with other committees and appropriate health organizations toward developing recommendations for legislative changes designed to establish specific rural hospital certification requirements commensurate with staff and facilities in rural areas.

RELATIONSHIP BETWEEN MEDICARE AND FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

(Section 3 of the Bill)

The statute (section 1862(c) of the Social Security Act) calls for medicare to stop making payment, as of January 1, 1976, for services furnished to a beneficiary for which he also has coverage under the Federal Employees' Health Benefits (FEHB) program. The January 1, 1976, deadline is the result of a provision, originated by the Committee on Ways and Means, that was included in the 1972 Social Security Amendments (Public Law 92-603.). It was designed to focus attention on the need to consider improved coordination of medicare and the FEHB program.

Many Federal employees and retirees over 65 have worked long enough in employment covered by social security to become insured for benefits under part A of medicare. (Part B is available to everyone over age 65 except recent immigrants.) The Civil Service Commission estimates that by June 1976 about 258,000 FEHB enrollees, or 50

percent of the enrollees age 65 and over, and 150,000 dependents will be covered by medicare part A.

At present, when a person who has such dual entitlement receives health care, medicare acts as the primary insurer and makes payment first for the covered services; thereafter, the FEHB plan in which the person is enrolled makes payment, but only to the extent that medicare has not already paid for the services covered by the FEHB plan. Although medicare thus bears a major share of the dually entitled person's health care costs, the person pays the same FEHB premium as people not entitled under medicare.

Because of overlapping benefits, many Federal employees and retirees age 65 and over have not found it advantageous to enroll in medicare part B. As a result, they do not benefit from the general revenue contribution (equalling more than half of the program's cost) which is available to all who enroll in part B.

Section 210 of Public Law 92-603 (October 30, 1972) amended title XVIII of the Social Security Act by adding a new subsection 1862(c) prohibiting payment by medicare, on or after January 1, 1975, for any item or service covered by an FEHB plan in which the medicare beneficiary was enrolled, unless prior to that date the Secretary of HEW was able to certify that the individual FEHB plan in question or the entire FEHB program had been modified in specified ways. The intent of this provision was described in the report of the Committee on Ways and Means as "to assure a better coordinated relationship between the FEHB program and medicare and to assure that Federal employees and retirees age 65 and over will eventually have the full value of the protection offered under medicare and FEHB."

To comply with this provision, the modifications in FEHB would have had to assure the following:

1. That one or more FEHB plans supplementing medicare protection are available to each Federal employee or retiree who is entitled to medicare parts A or B, or both A and B, and

2. That the Government or the FEHB plan will make available to each such individual a contribution at least equal to the contribution the Government makes toward the high-option coverage of any enrollee in the Government-wide FEHB plans. This contribution could be in the form of (a) a contribution toward the individual's FEHB protection supplementing medicare, or (b) a payment to offset the premium cost of part B of medicare, or (c) a combination of the two.

In the fall of 1974, when it became apparent that not enough progress toward coordination had been made to permit the requirements of subsection 1862(c) to be complied with by January 1, 1975, the effective date was extended for 1 year, to January 1, 1976, by Public Law 93-480 (October 26, 1974). The extension was conditional upon submission, no later than March 1, 1975, by the Department of HEW and the Civil Service Commission of a progress report (in the absence of which the effective date would have been July 1, 1975).

The report jointly submitted by the DHEW and the CSC pursuant to Public Law 93-480 pointed out a number of problems that it said would result from efforts to comply with all the requirements of section 1862(c), and proposed instead an alternative plan for coordination of the medicare and FEHB programs that would require amendment of both the medicare law and the FEHB Act.

Under the proposal, an FEHB medicare supplement option would be made available where the FEHB enrollee or a member of his family is covered by both parts A and B of medicare. The Government would pay 100 percent of the premium for this medicare supplement so long as this did not exceed the maximum dollar amount the Government pays with respect to other FEHB enrollees. For at least the first year, the enrollee would not have to pay any premium. The supplement, together with medicare, would cover up to 100 percent of expenses for a medicare beneficiary; for other family members, the regular high-option benefits of the FEHB plan would be provided.

The increased cost of this proposal to the Government is estimated for calendar year 1976 as \$48 million (\$39 million in increased FEHB contributions, and \$9 million in increased general revenue contributions for medicare part B which would result from increased enrollment in part B by FEHB enrollees). Also, an additional \$13 million in increased premiums would be paid by nonmedicare FEHB enrollees (their premiums would no longer reflect the reduction in FEHB program costs that results because medicare makes payment first for FEHB enrollees who have medicare coverage).

The committee has carefully considered this proposal by the administration as well as an alternative suggested in a report by the Comptroller General on the coordination issue—that the Government simply pay medicare part B premiums for all eligible FEHB enrollees. (The Comptroller General's report also suggested consideration of continuing without change the existing system for coordinating the benefits of the two programs.) The substantial costs of these proposals need to be weighed against the increased benefit protection or improved equity they would provide for people covered under both FEHB and medicare.

In general, the medicare supplements provided under FEHB today are richer than those offered to medicare beneficiaries under group health insurance plans in private industry. The coordination methods used by the various FEHB plans differ, but in general, after medicare makes payment, the FEHB plan pays for the services it covers in an amount that ordinarily will result in full coverage of most of the charges. Usually, enrollment in the low option of an FEHB plan (rather than the more costly high option) will achieve this result. The CSC has been advising medicare beneficiaries, during FEHB open enrollment periods, that low-option plans will in most cases adequately supplement both parts of medicare at lower cost than the high option.

Since section 1862(c) was enacted, the standard Government contribution toward FEHB premiums has increased from 40 to 60 percent of the total premium, and proposals have been made to increase the Government contribution again in future years. Medicare beneficiaries, as well as other FEHB enrollees, have benefited from this increased contribution.

Although it can be argued that more generous provisions than now exist for coordination of FEHB and medicare are merited, the committee is not convinced that equity requires the Government to substantially increase its expenditures under the two programs in an effort to accomplish this. It should be noted that Federal employees who have acquired medicare insured status have generally done so by

splitting their careers between Federal and private employment or by moonlighting, rather than through a lifetime of work covered under social security. Some offsetting of the benefits of one program against the other, such as now exists, seems justified in view of the major contributions the Government makes toward the financing of both programs.

The committee has therefore concluded that the existing relationship between the medicare and FEHB programs should be maintained. Accordingly, the bill would repeal section 1862(c) of the Social Security Act.

MEDICARE PART B PREMIUM

(Section 4 of the Bill)

The current monthly premium charged for part B of medicare is permanently frozen at \$6.70 (the same amount as for last year) because of a technical error in the law that prevents the premium from being increased even though the Congress clearly intended to permit increases on July 1 of each year. The intention was to permit premium increases corresponding with increases in program costs, but limited to a maximum percentage increase no greater than the percentage by which monthly social security benefits have increased during the year.

Part B of medicare—the voluntary medical insurance part of the medicare program covering physicians' and certain other health services—has since its inception been financed through a combination of monthly premiums paid by beneficiaries who choose to enroll and matching payments from Federal general revenues. For the great majority of beneficiaries, the medicare premium is deducted each month from the social security benefit check.

The amount of the premium is determined through a calculation that begins with the cost of providing part B protection to beneficiaries age 65 and over. The premium was originally designed to equal one-half of this cost, but subsequent legislation enacted in 1972 limited the maximum premium increase each year to the percentage by which monthly social security benefits increased. (Beneficiaries under age 65 who are covered by part B by virtue of their status as social security disability beneficiaries or as end-stage renal disease patients pay the same premium as the aged, even though the cost of providing benefits to them is far greater.)

The technical error, freezing the premium, occurred when Public Law 93-233, enacted December 31, 1973, modified the schedule for automatic increases in social security cash benefits, but unintentionally failed to make corresponding changes in the provisions that relate percentage increases in the medicare part B premium to increases in cash benefits. Federal general revenues are used to finance whatever part of the cost of part B is not met through premiums paid by beneficiaries. So long as the premium amount remains frozen, the proportion of part B costs financed by general revenues will continue to rise.

The committee recognizes that many people would prefer not to allow the part B premium to increase at a time when the elderly, as well as others, are feeling the effects of inflation in health care costs. Failure to increase the premium, however, results in millions of dollars

of increased general revenue expenditures in future years. If such amounts were to be expended, the money might better be used to provide some improvement in benefit protection.

The committee's bill would correct the technical error in the law by changing from June 1 to May 1 the date used in determining the percentage increase from one year to the next in social security benefit levels, to arrive at the maximum percentage by which the medicare premium may be increased. The premium increase would be determined and promulgated in December of each year as under present law and the increased premium would be deducted from the same benefit check that reflects a cash benefit increase under the provisions for automatic increases in social security benefits. Thus, as intended by the Congress in enacting Public Law 93-233, premium increases would not result in reducing the amount of the monthly checks received by beneficiaries (because both a benefit increase and a very much smaller premium increase would be reflected in the same check).

Because of the technical error, the monthly premium has remained at \$6.70 for the 12-month period beginning July 1, 1975, instead of increasing. The committee bill would not attempt to "catch up" by permitting 2 years' worth of benefit increases to be reflected in the single increase for the year beginning July 1, 1976. Instead, that premium increase would reflect only 1 year's increase in social security cash benefits.

Thus, the present \$6.70 premium would go up only 50 cents on July 1, 1976, the same date that the social security benefit checks will be increased by reason of the automatic cost-of-living provisions in title II of the Social Security Act. Current estimates are that cash social security benefits will be increased by about 7 percent for the checks that are mailed early in July. The minimum dollar increase would be several times the 50-cent increase in the premium which is deducted from the same check in which the general benefit increase appears.

PROFESSIONAL STANDARDS REVIEW ORGANIZATION AREA DESIGNATIONS

(Section 5 of the Bill)

Under present law, the Secretary of Health, Education, and Welfare is required to and has, in fact, designated geographic areas in the several States as "Professional Standards Review Areas." There are 203 such areas in the country. In more than one-half of these areas, physician-sponsored organizations have formally contracted with the Secretary as either designated PSRO's with operating responsibility (64 organizations as of this date) or planning PSRO's (56 as of this date).

There are, however, a number of States in each of which multiple PSRO areas have been designated, and in which no formal PSRO relationships have been established. It is the committee's understanding that the development of PSRO's in those States has, in large part, been inhibited by widespread physician concern over their inability to establish a single statewide PSRO rather than the presently required multiple PSRO's.

The committee amendment would, under certain circumstances, eliminate the barrier to designating a single statewide PSRO area in a

number of States where multiple areas now obtain. The amendment requires the Secretary to conduct, as soon as possible, separate polls in each of the presently designated areas of a State with multiple areas if in no area of that State, as of the effective date of this act, has the Secretary designated and entered into an agreement with an organization as the Professional Standards Review Organization. As has been noted, the Secretary has so designated and entered into such agreements with more than 60 organizations thus far.

The physicians in each presently designated local area meeting the conditions described would be polled, on a confidential basis, as to whether they were willing to forego the local designation in favor of a statewide area. If in each presently designated local area a majority of the physicians responding opt for the statewide designation, then the Secretary would be required to redesignate and consolidate the multiple areas into a statewide area. Thus, if a majority of the physicians elect a change in every presently designated local area in a State, the Secretary would follow up with statewide designation. If, however, a majority of physicians in an area elect to retain the local designation then the present multiple area designations in that State would continue.

PSRO DIRECT UTILIZATION REVIEW ACTIVITIES

(Section 6 of the Bill)

Public Law 92-603 established Professional Standards Review Organizations (PSRO's) throughout the country. These organizations, consisting of practicing physicians in an area, are charged with reviewing the quality and necessity of health services provided under the medicare and medicaid programs.

The PSRO's may discharge their review responsibilities with respect to hospitals in two ways: first, they can delegate their review responsibilities to hospital review committees where the PSRO is satisfied as to the capacity of the hospital to conduct proper review (in which case the PSRO is charged with the responsibility to continuously monitor the effectiveness of the hospital review committee); alternatively, the PSRO's can carry out the review activities on their own in those cases and, to the extent that a hospital either cannot conduct satisfactory review or chooses that the PSRO perform the review for it.

Under present law, where the PSRO delegates review responsibility to a hospital committee, the costs of that review are reimbursed through Medicare and Medicaid benefit payments to the hospital since these costs are considered a part of the hospital benefit cost. However, where the PSRO does not delegate review to a hospital, the PSRO must bear the cost of the review out of its own administrative budget.

Since PSRO administrative budgets are often quite limited, the PSRO's in effect have an incentive to delegate review so that they will not have to bear the cost—conversely, they have a disincentive to perform review directly. The result of this may be inappropriate or premature delegations of review authority to hospitals which are not really competent or willing to carry out the review.

The committee amendment would allow the medicare benefit trust fund to pay not only for delegated review to the hospitals, but to also pay the PSRO through the hospital for nondelegated hospital review.

This would equalize reimbursement treatment of review activities. The payment in the case of nondelegated review would flow from the hospital to the PSRO following billing by the PSRO on a prospective or retroactive basis with the hospital then fully reimbursed for the total amount of the charge (without any requirement of allocation) by the intermediary for such payments under guidelines established by the Bureau of Health Insurance and Quality Assurance defining the amount and circumstances of such charges. The Federal agencies, and not the hospitals or intermediaries, would be responsible for assuring the appropriateness and reasonableness of PSRO charges for direct utilization review.

Further the committee anticipates that in order to completely eliminate any financial incentive either for or against the delegation of review responsibility and authority by a PSRO to a hospital, existing medicare policies of the Bureau of Health Insurance will be modified to provide that a separate cost center be established by a hospital to clearly identify the reasonable costs of required review activities. It is expected that for medicare and medicaid reimbursement purposes (whether such review be conducted under a delegation by a PSRO to a hospital review committee, or directly by the PSRO), 100 percent of the reasonable costs incurred in the reasonable review of medicare, medicaid, and material and child health patients admitted to the hospitals concerned shall be recognized as a direct cost of such programs without requirement of any apportionment of the review costs among patients of the institution for whom such costs had not been incurred.

Of course, in the case of the costs of any review and related activities which have customarily been undertaken as a routine aspect of medical staff privileges in a hospital any costs for such work (such as that of hospital tissue and formulary committees, etc.) are not intended to be compensated on other than an apportionment basis.

This amendment also provides for the transfer of funds for medicaid appropriations to the medicare trust fund to reimburse the trust fund for funds expended for PSRO nondelegated review of medicaid patients.

MEDICARE PAYMENTS TO VETERANS' ADMINISTRATION HOSPITALS IN CASE OF "GOOD FAITH" ERROR

(Section 7 of the Bill)

Under present law, payments may not be made under part A of medicare to any Federal provider of services, such as a Veterans' Administration hospital, where such institution is otherwise obligated by law to render care at public expense.

The committee has had its attention called to circumstances in which an individual, entitled to part A benefits, was admitted to a veterans' hospital with both the hospital and the beneficiary believing the patient was eligible for such care and was subsequently found to be ineligible for care as a veteran. Following such a determination, the Veterans' Administration is required, by law, to recover the costs of such care from the patient (or his estate, if the patient is deceased).

The committee amendment would permit payment by the medicare program to VA hospitals for care rendered to a part A beneficiary in certain circumstances. Payment may be made only when (1) the beneficiary is admitted to the VA facility in the reasonable belief that he

is entitled to have service furnished to him by the VA free of charge; (2) the authorities of such hospital and the beneficiary acted in good faith in making such admission; (3) that the beneficiary is, in fact, not entitled to care in the facility free of charge; and (4) the care was provided while those operating the facility remained unaware of the fact that the individual was not eligible for VA benefit or before it was medically feasible to arrange a transfer or discharge.

Payment for services would be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) reasonable costs for such services (as estimated by the Secretary following consultation with the Chief Medical Director of the Veterans' Administration).

UPDATING OF THE LIFE SAFETY CODE REQUIREMENTS APPLICABLE TO SKILLED NURSING FACILITIES

(Section 8 of the Bill)

Under present law, skilled nursing facilities participating in the medicaid and medicare programs must meet such provisions of the Life Safety Code of the National Fire Protection Association (21st edition, 1967) as are applicable to nursing homes. The committee amendment would update medicare and medicaid requirements by deleting the reference to the 1967 edition of the Code and adding the 1973 edition. The amendment would also assure that facilities currently qualified under the 1967 Code or State codes which are approved by the Secretary, would not lose their certification status due to any changes in requirements imposed by the 1973 edition of the Code.

GRANTS TO DEMONSTRATE APPROPRIATE MECHANISMS FOR CAPITATION PAYMENTS

(Section 9 of the Bill)

Under present law the various State medicaid programs can make capitation payments to Health Maintenance Organizations (HMO's) which contract in advance to provide services to enrolled medicaid recipients. The use of this type of arrangement has occurred most prevalently in the State of California.

Over recent years, audits by the General Accounting Office and extensive investigative activities by the Senate's Government Operations Committee have shown that the basis on which payments have been made to these organizations is not necessarily reasonable. Officials of the State of California have agreed with this judgment and have applied to the Department of Health, Education, and Welfare for a grant in order to support a program to develop appropriate mechanisms to measure the true cost of providing health care services through HMO's and to measure the quality of services so provided. The results of this HEW-grant-supported project would be used to structure a reasonable payment mechanism for HMO's in California and other States.

One key aspect of the project for which HEW grant support has been sought would include measuring the costs of providing care in an individual practice association—a type of HMO which, while receiving prepaid capitation payment from the State, would continue to pay its member physicians on a fee-for-service basis.

State officials maintain that cost data from this type of HMO is essential to any valid study.

There is one large-scale operating independent practice association in the State, the Sacramento Foundation for Medical Care. This foundation involves over 800 physicians and 20 hospitals and is providing prepaid health services to more than 36,000 medicaid enrollees. Because of an unalterable fixed payment rate set by State law, the State has been unable to pay the foundation an amount fully equal to the costs of providing care for the medicaid enrollees. However, State officials want to pay the foundation a rate sufficient to cover its costs so that it can continue to operate and so that its unique costs data can be used as a part of the overall study.

A problem has arisen in that the General Counsel of HEW has ruled that the section of the social security law which authorizes cost and quality evaluation studies does not allow for any funding of costs already incurred for providing patient care.

This provision would clarify existing law and congressional intent so as to specifically allow in this case for the payment of such retroactive costs where these payments are necessary to assure that the individual practice association can continue in a study, carried out by a State agency aimed at developing a rate setting methodology for HMO's.

The total grant from HEW to the State of California would call for payments of approximately \$5.2 million. Of this amount, approximately \$1.6 million will be used for conducting the rate setting experiment with the foundation and approximately \$700,000 of this \$1.6 million will be used to reimburse the foundation for health services provided from July 1 to December 31, 1975.

OCCUPATIONAL THERAPY UNDER MEDICARE

(Section 10 of the Bill)

Under present law, occupational therapy services are covered under part A when provided to medicare beneficiaries who are inpatients in medicare-approved hospitals or skilled nursing facilities. Patients receiving home health services under part A or part B are entitled to occupational therapy services only if they are receiving either intermittent skilled nursing care or physical or speech therapy. In addition to coverage as part of home health services, occupational therapy services are covered under part B only when provided to outpatients in medicare-approved hospitals. Occupational therapy services provided to outpatients in a clinic, rehabilitation agency or other organized setting are not now covered.

The committee is concerned that present law treats occupational therapy differently from physical or speech therapy on two grounds. First, occupational therapy services are not covered when outpatient services are provided through clinics and organized health settings, although physical and speech therapy services are covered in such settings. Second, patients cannot receive occupational therapy through a home health agency unless they also require skilled nursing services, physical therapy or speech therapy.

The committee bill, therefore, eliminates these distinctions between occupational therapy and the other therapy groups. It expands the

outpatient physical therapy and speech pathology benefit as provided through clinics, rehabilitation agencies, and other organized settings to include occupational therapy. Additionally, it amends the requirements for patients to qualify for home health services to provide that a need for occupational therapy alone can qualify the homebound patient for this benefit. However, the need for occupational therapy alone would not qualify a person for the service of a home health aide.

In administering the occupational therapy benefit, the committee intent is to have the Department of HEW apply the definition, guidelines, and criteria as to covered and noncovered occupational therapy services included in the "Skilled Nursing Facility Manual" Revision No. 109, issued by the Social Security Administration in November, 1975.

FOOD STAMP PURCHASES BY WELFARE RECIPIENTS

(Section 201 of Title II of the Bill)

Under a provision of Public Law 93-86, State agencies were mandated to withhold, at the option of the recipient, the amount of the AFDC grant needed to purchase the recipient's food stamp allotment and to distribute the food stamp coupon allotment along with the reduced cash grant (usually by mail).

Although many States do use Public Assistance Withholding (PAW) issuance successfully, some States have found the mandatory provisions in present law extremely difficult to implement. There is a serious problem in the mail issuance of food stamp coupons in urban areas where the probability of mail loss is high. Major design problems are met in attempting to coordinate State-run AFDC systems with locally run or contracted-out food stamp issuance systems. Many States even though they utilize computers encounter the costly problem of computer incompatibility between the AFDC and food stamp systems. The heavy additional cost of establishing computer capability to implement withholding or computer compatibility is a financial burden with which a number of States cannot cope. There is, in addition, strong opposition in some States to requiring that the public assistance withholding (PAW) issuance program operate in all areas of the State.

The committee believes the problems posed by State agencies are valid. To date, only 21 States and one jurisdiction have fully implemented PAW and mail issuance program of food stamp coupons. Eight other States have implemented the program in some of the counties in the State. However, 21 States and 3 jurisdictions have not implemented the PAW and mail issuance program. The following shows the breakdown by State.

States with full implementation

Alaska, Arizona, Arkansas, Delaware, Guam, Hawaii, Idaho, Iowa, Kansas, Kentucky, Mississippi, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Utah, Vermont, Virginia, Washington, and West Virginia.

States with partial implementation

California, Colorado, Indiana, Maryland, Minnesota, New York, Texas, and Wisconsin.

States without implementation

Alabama, Connecticut, District of Columbia, Florida, Georgia, Illinois, Louisiana, Maine, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Tennessee, Virgin Islands, and Wyoming.

Under current law, Agriculture Department regulations mandate that all States offer, statewide, PAW food stamp issuance procedures to AFDC recipients beginning January 1, 1976.

In response to the problems encountered by some States, title II of the committee bill will give States the option of offering PAW issuance procedures. States could choose not to offer PAW procedures, offer them statewide, or offer them only in selected areas of the State. For those States choosing to offer PAW issuance procedures to AFDC recipients, the administrative cost of the procedures would continue to be governed by the Federal-State cost-sharing provisions of the Food Stamp Act.

III. COSTS OF CARRYING OUT THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out this bill.

The provision allowing the Part B premium to increase would result in reduced general revenue outlays of \$184 million in fiscal 1977, with increased reduction each year to a reduction of \$725 million in fiscal 1981.

The provision preventing rollbacks in physicians' fees would cost \$37 million in fiscal 1976.

The provision broadening coverage of occupational therapy services would have a cost of \$1 million in fiscal year 1976 and \$2 million per year thereafter.

The provision relating to food stamps will save an estimated \$3 million in Federal funds in fiscal year 1976.

The committee believes that the other provisions have either no cost or have only a nominal cost.

IV. VOTE OF COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act, as amended, the following statement is made relative to the vote of the committee on reporting the bill. This bill was ordered favorably reported by the committee without a rollcall vote and without objection.

V. CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, as reported).

Public Law 94-202 (H.R. 10727),
January 2, 1976, An Act to
amend the Social Security Act
to expedite the holding of
hearings under titles II, XVI,
and XVIII by establishing
uniform review procedures under
such titles.



Public Law 94-202
94th Congress, H. R. 10727
January 2, 1976

An Act

To amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1631(c) of the Social Security Act is amended to read as follows:

"HEARINGS AND REVIEW

"(c) (1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title. The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

"(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves a disability (within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

"(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205."

SEC. 2. Section 1631(d) of the Social Security Act is amended by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

SEC. 3. The persons appointed under section 1631(d)(2) of the Social Security Act (as in effect prior to the enactment of this Act) to serve as hearing examiners in hearings under section 1631(c) of such Act may conduct hearings under titles II, XVI, and XVIII of the Social Security Act if the Secretary of Health, Education, and Welfare finds it will promote the achievement of the objectives of such titles, notwithstanding the fact that their appointments were made without meeting the requirements for hearing examiners appointed under section 3105 of title 5, United States Code; but their appointments shall terminate not later than at the close of the period ending December 31, 1978, and during that period they shall be deemed

Social
Security
Act, amend-
ments.
42 USC 1383.

42 USC 1382c.

Judicial
review.
42 USC 405.

42 USC 1383.

42 USC 1383
note.

42 USC 401,
1381, 1395.

5 USC 551.

to be hearing examiners appointed under such section 3105 and subject as such to subchapter II of chapter 5 of title 5, United States Code, to the second sentence of such section 3105, and to all of the other provisions of such title 5 which apply to hearing examiners appointed under such section 3105.

42 USC 405.

SEC. 4. The third sentence of section 205(b) of the Social Security Act is amended to read as follows: "Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request."

Effective date.
42 USC 405 note.

SEC. 5. The amendments made by the first two sections of this Act, and the provisions of section 3, shall take effect on the date of the enactment of this Act. The amendment made by section 4 of this Act shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, after February 29, 1976. The amendment made by the first section of this Act, to the extent that it changes the period within which hearings must be requested, shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, on or after the date of the enactment of this Act.

West Virginia agreement.
42 USC 418 note.
42 USC 418.

SEC. 6. (a) Notwithstanding the provisions of subsection (d) (5) (A) of section 218 of the Social Security Act and the references thereto in subsections (d) (1) and (d) (3) of such section 218, the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 may, at any time prior to 1977, be modified pursuant to subsection (c) (4) of such section 218 so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e) (1) of such section 218. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

(1) all services performed by such individual, in any policemen's or firemen's position to which the modification relates, on or after the date of the enactment of this Act; and

(2) all services performed by such individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e) (1) of such section 218 at the time or times established pursuant to such subsection (e) (1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety

days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare.

SEC. 7. Notwithstanding any other provision of law, no regulation and no modification of any regulation, promulgated by the Secretary of Health, Education, and Welfare, after the date of enactment of this Act, shall become effective prior to the end of the eighteen-month period which begins with the first day of the first calendar month which begins after the date on which such regulation or modification of a regulation is published in the Federal Register, if and insofar as such regulation or modification of a regulation pertains, directly or indirectly, to the frequency or due dates for payments and reports required under section 218(e) of the Social Security Act.

SEC. 8. (a) This section may be cited as the "Combined Old-Age, Survivors, and Disability Insurance-Income Tax Reporting Amendments of 1975".

(b) Title II of the Social Security Act is amended by adding after section 231 the following section:

"PROCESSING OF TAX DATA

"SEC. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury."

(c) Section 232 of the Social Security Act, as added by subsection (b) of this section, shall be effective with respect to statements reporting income received after 1977.

(d) (1) Section 201(g)(1) of such Act is amended to read as follows:

"(g) (1) (A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the Trust Funds into the Treasury—

"(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less

Regulation,
publication
in Federal
Register.
42 USC 405a.

42 USC 418,
Combined Old-
Age, Survivors,
and Disability
Insurance-Income
Tax Reporting
Amendments
of 1975.
42 USC 432
note.
42 USC 432.

26 USC 6031.
42 USC 1301.

26 USC 6103.

42 USC 432
note.

42 USC 401.

42 USC 1395.

42 USC 401,
1381.
26 USC 641,
3101.
26 USC 1401,
3101.

“(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Ante, p. 1137.

42 USC 401,
1381, 1395.
26 USC 641,
3101.
26 USC 1401,
3101.

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

“(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clauses (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.”.

(2) Subsection (g) of such section is further amended by adding at the end thereof the following new paragraph:

"(4) The Board of Trustees shall prescribe before January 1, 1981, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined."

(e) Any persons the Board of Trustees finds necessary to employ to assist it in performing its functions under section 201(g)(4) of the Social Security Act may be appointed without regard to the civil service or classification laws, shall be compensated, while so employed at rates fixed by the Board of Trustees, but not exceeding \$100 per day, and, while away from their homes or regular places of business, they may be allowed traveling expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(f) The Secretary shall not make any estimates pursuant to section 201(g)(1)(A)(ii) of the Social Security Act before the Board of Trustees prescribes the method of determining costs as provided in section 201(g)(4) of such Act. The determinations pursuant to section 201(g)(1)(B) of the Social Security Act with respect to the carrying out of the functions of the Department of Health, Education, and Welfare specified in section 232 of such Act, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of section 201(g)(1)(A) of the Social Security Act), during fiscal years ending before the Board of Trustees prescribes the method of making such determinations, shall be made after the Board of Trustees has prescribed such method. The Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts that should be transferred from the general fund in the Treasury to the Trust Funds (as referred to in section 201(g)(1)(A) of the Social Security Act) to insure that the general fund in the Treasury bears its proper share of the costs of carrying out such functions in such fiscal years. The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.

(g) Section 6103 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) DISCLOSURE OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.—The Secretary or his delegate is authorized to make available to the Secretary of Health, Education, and Welfare information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective information return processing program."

(h) (1) Section 230(b)(2) of the Social Security Act is amended to read as follows:

"(2) the ratio of (A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) with respect to such particular calendar

42 USC 401.

Ante, p. 1137.

42 USC 401
note.

42 USC 401.

42 USC 401
note.

26 USC 6103.

26 USC 6031.

42 USC 430.

year was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a).”.

42 USC 430.

(2) Section 230(b) of such Act is further amended by adding at the end thereof the following new sentence: “For purposes of this subsection, the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subsection (a) prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.”

42 USC 403.

(i) (1) Section 203(f) (8) (B) (ii) of the Social Security Act as amended—

(A) in clause (I) thereof, by striking out “taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year”, and inserting in lieu thereof “wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year”, and

(B) in clause (II) thereof, by striking out “taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of the most recent calendar year”, and inserting in lieu thereof “wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding the most recent calendar year”.

(2) Section 203(f) (8) (B) (ii) of such Act is further amended by adding at the end thereof the following new sentence: “For purposes of this clause (ii), the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.”.

42 USC 424a.

(j) Section 224(f) (2) of the Social Security Act is amended, in the first sentence thereof, by—

(1) inserting “before the calendar year” immediately after “calendar year”, and

(2) inserting “before the calendar year” immediately after “taxable year”.

42 USC 418
note.

42 USC 418.

(k) Notwithstanding the provisions of section 218(i) of the Social Security Act, nothing contained in the amendments made by the preceding provisions of this section shall be construed to authorize or require the Secretary, in promulgating regulations or amendments thereto under such section 218(i), substantially to modify the procedures, as in effect on December 1, 1975, for the reporting by States to the Secretary of the wages of individuals covered by social security pursuant to Federal-State agreements entered into pursuant to section 218 of the Social Security Act.

42 USC 1382a.

SEC. 9. Section 1612(b) (2) of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972) is amended (1) by inserting (A) immediately after (2), and (2) by adding at the end thereof the following new subparagraph:

"(B) Monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual."

SEC. 10. (a) Section 7652(b) (3) of the Internal Revenue Code of 1954 is amended—

Shipments
to the U.S.
26 USC 7652.

(1) by striking out the first sentence and inserting in lieu thereof the following: "Beginning with the calendar quarter ending September 30, 1975, and quarterly thereafter, the Secretary or his delegate shall determine the amount of all taxes imposed by, and collected during the quarter under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.";

(2) by amending the first sentence of subparagraph (A) to read as follows: "There shall be transferred and paid over, as soon as practicable after the close of the quarter, to the Government of the Virgin Islands from the amounts so determined a sum equal to the total amount of the revenue collected by the Government of the Virgin Islands during the quarter, as certified by the Government Comptroller of the Virgin Islands."; and

(3) by amending the sentence immediately following subparagraph (C) by striking out "at the beginning" and inserting in lieu thereof the following: "with respect to the four calendar quarters immediately preceding the beginning".

(b) The amendments made by paragraphs (1) and (2) of subsection (a) shall apply with respect to all taxes imposed by, and collected after June 30, 1975, under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.

26 USC 7652
note.

Approved January 2, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-679 (Comm. on Ways and Means).

SENATE REPORT No. 94-550 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 121 (1975):

Dec. 1, considered and passed House.

Dec. 17, considered and passed Senate, amended.

Dec. 19, House concurred in Senate amendments with amendments;
Senate receded and concurred in House amendments.

Report of the Committee on
Ways and Means, to accompany
H.R. 10727, House of
Representatives Report No.
94-679.

SOCIAL SECURITY HEARINGS AND APPEALS

NOVEMBER 20, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 10727]

The Committee on Ways and Means, to whom was referred the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SCOPE

The purpose of H.R. 10727 is to expedite the holding of hearings for social security claimants whose applications for benefits have been denied. This is an emergency bill designed to take the most effective action that can be taken immediately to help reduce the enormous backlog of social security appeals cases now pending within the Social Security Administration. At the present time, there are approximately 105,000 cases before the Bureau of Hearings and Appeals of the Social Security Administration, including social security disability and retirement cases, Supplemental Security Income (SSI) cases, Medicare cases, and black lung cases.

The appeals procedures under the SSI program (title XVI of the Act) differ from those that apply to hearings conducted under the Old-Age, Survivors and Disability Insurance program (title II) and the Medicare program (title XVIII). In addition, SSI appeals are heard by social security hearing examiners whose appointment is provided for in title XVI of the Act, while social security and Medicare appeals are heard by Administrative Law Judges appointed under the Administrative Procedure Act.

H.R. 10727 would eliminate the distinctions between hearings under title XVI and those that are conducted under title II and title XVIII of the Act. The bill also provides for the more effective use of hearing officers within the Social Security Administration by giving the

authority to persons who have been appointed as SSI hearing examiners to hear cases under title II and title XVIII for a temporary period of time terminating December 31, 1978. They will, unlike current SSI hearing examiners, operate under the provisions of the Administrative Procedure Act which are designed to assure independence of hearings officers from agency control.

GENERAL DISCUSSION

Need for Legislation

There is currently a tremendous backlog of hearings cases before the Bureau of Hearings and Appeals and every Member of Congress has heard from constituents concerning cases where claimants have had to wait many months and even years for a hearing and decision in their case. Within recent months the Bureau of Hearings and Appeals has made significant gains in increasing the productivity of Administrative Law Judges (ALJs) with the result that the current case backlog is being reduced by 1,000 cases a month. If the authority in this bill is enacted it has been estimated that the hearing backlog will be reduced by 3,000 a month so that in 18 months cases can be adjudicated within 90 days.

At the request of 73 Members of Congress, the Subcommittee on Social Security held extensive hearings on this subject in September and October and heard from 43 witnesses including some of the foremost experts in administrative law and social security. The Subcommittee also heard from the various associations of hearing examiners and Administrative Law Judges. Many suggestions were made for changes in the hearings procedures and the administration of the disability programs ranging from minor amendments to massive structural changes.

In this regard, the Committee recommends that the Social Security Administration authorize the Center for Administrative Justice to make a study of the Social Security appeals procedures and make recommendations for any structural changes relating to improving both the speed and quality of Social Security adjudications. Although most witnesses appearing before the Subcommittee agreed that the current appeals system under the Administrative Procedure Act is in the public interest, some witnesses, including the Civil Service Commission, expressed a contrary view. Thus, the recommended study should address this broad issue together with such subjects as the appropriate qualifications, method of appointment, and position and grade classification of Social Security ALJs.

Although it intends to consider the appeals process in depth when it takes up comprehensive Social Security legislation next session, the Committee now recommends a relatively limited bill which could be enacted into law this year. Additional amendments might have the effect of complicating and making the bill more subject to controversy.

Provisions of the Bill

The bill eliminates the distinction in the nature of hearings and hearing officers under the Social Security and SSI programs, thus resulting in a common corps of hearing officers authorized to conduct hearings under both programs with common procedural safeguards

provided under the Social Security Act and the Administrative Procedure Act.

The first provision of the bill would amend Section 1631(c) of the Social Security Act to provide the same rights to hearing and administrative and judicial review with respect to claims under title XVI (SSI) of the Act as to apply to title II (Social Security) and title XVIII (Medicare) claims under Section 205(b) and 205(g) of the Act. This is necessary to override an interpretation of the Civil Service Commission that the Administrative Procedure Act was not applicable to SSI hearings and which required the appointment of non-APA hearings officers who could not hear Social Security and Medicare cases. This action greatly exacerbated the current hearing crisis and the validity of the SSI hearings has been challenged in the Courts as second class justice. The Committee bill will put this matter to rest by clearly providing on-the-record administrative hearings and judicial review of a parallel nature for Social Security, SSI and Medicare claimants.

The principal modifications to Section 1631(c), which presently provides general authority to the Secretary to conduct hearings on SSI appeals, would be:

(1) the specific requirement that decisions after a hearing must be on the basis of evidence adduced at the hearing;

(2) an increase in the period during which requests for review must be filed from 30 days to 60 days;

(3) the addition of specific authority for the Secretary to hold hearings and make findings of fact, administer oaths, examine witnesses and receive evidence; and authority to receive evidence at a hearing even though inadmissible under the rules of evidence applicable to court procedure;

(4) to make the final determinations of the Secretary subject to the "substantial evidence rule" upon judicial review by eliminating language presently in Section 1631(c) (3) which provides that the determinations of the Secretary "as to any fact shall be final and conclusive and not subject to review by any court".

The principal effect of this last modification is to apply the same rules of judicial review of title XVI cases as apply to title II cases. By removing this language from title XVI, findings of fact of the Secretary in SSI cases, if supported by substantial evidence, shall be conclusive as are such findings under title II. Your Committee believes that both programs should be under the "substantial evidence rule", but that this should not be interpreted by the courts as a license to vary from strict adherence to its principles. With over 4,000 social security disability cases now pending in the United States District Courts, and the possibility of a similar caseload developing in the SSI program, when its appeals are fully felt, the practice of certain courts to make *de novo* factual determinations would result in very serious problems for the federal judiciary and the social security program.

Your Committee bill would repeal section 1631(d) (2) of the Social Security Act. This is the section of the law under which, pursuant to Civil Service Commission interpretation, non-APA hearing examiners have been appointed. The continuation of this authority is inappropriate inasmuch as title XVI cases in the future will require APA hear-

ing officers. The Committee believes that an adequate supply of APA hearing officers can be obtained from the current pool of SSI hearing examiners and Black Lung ALJs who meet or will meet the requirements for regular appointments and through the on-going recruitment by the Civil Service Commission of ALJs in the private and governmental sectors.

The Committee bill also grants authority for those SSI hearing examiners (who have been appointed under section 1631(d)(2)) to hear cases under titles II, XVI, and XVIII until December 31, 1978 as temporary Administrative Law Judges if the Secretary of HEW finds it will promote the achievement of the objectives of these titles. It is the Committee's understanding that the Secretary will make this finding as to all SSI hearing examiners who have been appointed. The Committee also understands that now virtually all the temporary Black Lung judges hold SSI hearing examiner appointments and this would provide the Bureau of Hearings and Appeals the 200 judges it needs to reduce the backlog. Furthermore, by the end of 1978, all SSI examiners will have acquired sufficient adjudication experience to meet the experience requirement for appointment as regular ALJs. They would, as they met the experience requirement, be afforded the opportunity to be placed on the register for regular ALJ appointment on a merit basis under the regular Civil Service procedures.

It is hoped that these requirements and procedures will be applied in a manner to effectively serve the needs of the Social Security Act programs. The Committee is not convinced that these needs have been adequately served in the past by the Office of Administrative Law Judges, Civil Service Commission. The performance of this office in overruling the administering agency (HEW) in its legal opinion that SSI was under the APA and in downgrading title II social security adjudications as bearing "little resemblance to the full-blown adversarial proceedings conducted by Administrative Law Judges, under the Administrative Procedure Act, in regulatory agencies" does not reflect the will of Congress.

The Office of Administrative Law Judges should be mindful of its ministerial responsibilities in supplying registers from which adequate numbers of ALJs can be hired by HEW to adjudicate social security claims. There are indications that in the past these registers have not been supplied with the speed and with the number of candidates thereon which HEW needed to get better control over the hearings backlog. In evaluating current SSI hearings examiners for regular ALJ appointments great weight should be given to experience in actually adjudicating Social Security and Black Lung cases and roadblocks should not be created in unduly lengthy and bureaucratic appointment procedures. Recent statistics show that of the 55 applications of SSI hearing examiners for the regular ALJ registers which have been acted upon by the Civil Service Commission, only 5 hearing examiners have been found eligible. This suggests to the Committee that the Office of Administrative Law Judges is applying its standards unrealistically. Now that a majority of the ALJ corps in the Federal Government are working under Social Security Act programs, the Civil Service Commission should reexamine its ALJ appointment standards to assure that they are relevant to the positions that have to be filled.

To avoid any possible misinterpretation, the bill specifically provides that the temporary hearing officers authorized to conduct hearings under the bill would be subject to all the provisions of the Administrative Procedure Act that assure independence from agency control. These provisions would include: Subchapter II of chapter 5 of title 5 of the United States Code (the substantive provisions relating to APA adjudications); the second sentence of section 3105, of title 5 U.S.C. (assignment of cases in rotation and the prohibition of assignment to duties inconsistent with their responsibilities as hearing officers); and the deeming of them as hearing examiners appointed under section 3105 so that, among other things, they would be exempt from agency performance rating requirements (5 U.S.C. 4301(2)(E)) and agency determination of performance acceptability for in-grade increases (5 U.S.C. 5335(a)(3)(B)) and making Civil Service responsible for determining their pay levels (5 U.S.C. 5362), removal for cause (5 U.S.C. 7521), and general administration (5 U.S.C. 1305). The Committee is unaware of any prejudicial "agency control" exercised by HEW under the parallel provisions it has established for SSI hearing examiners. However, the specific application of these provisions of the APA, together with the provisions of the bill applying the same procedural safeguards to review proceedings under title XVI as apply under title II, will eliminate the possibility of the courts determining that SSI review procedures do not comply with the Administrative Procedure Act or due process.

Moreover, the specific enumeration of these provisions of the APA as applicable to the temporary ALJs should not be interpreted to make these adversary proceedings or otherwise "judicialize" procedures under title II, XVI, and XVIII. The enumeration of these provisions also should in no way suggest that they are not applicable to the regular Social Security ALJs. Your Committee and the Department of HEW consistently over the years have declared that the language in title II (and under the provisions of this bill, title XVI) of the Social Security Act call for "on-the-record" hearings which invoke the provisions of the Administrative Procedure Act.

Although the bill is silent on the grade level of temporary ALJs, the Administration's proposal made at the hearing before the Subcommittee envisioned a GS-14 for such officers who would have been allowed to hear concurrent cases (applications for SSI and Social Security) in addition to those solely for SSI benefits. Your Committee's bill authorizes broader authority for these temporary ALJs so that the Bureau of Hearings and Appeals will have the maximum amount of flexibility in eliminating the appeals backlog. These temporary ALJs, therefore, would also be able to hear Social Security and Medicare cases. For these reasons and also because the Black Lung ALJs who will be included in the temporary corps have already been classified at the GS-14 level, the Committee believes that GS-14 would be an appropriate classification for those holding authority provided for by the bill. The fact that the Committee does not suggest or mandate by law a GS-15 for these individuals does not indicate that it believes that a lower grade is appropriate for regular Social Security ALJs. In fact, the Committee was not impressed with the rationale of the Civil Service Commission which emphasized the non-adversary aspect of the Social Security hearing in justifying the dif-

ferential in grade level between regulatory agency ALJs (GS-16) and the Social Security ALJs (GS-15).

The final provision in the bill will reduce the period for which Social Security and Medicare appeals may be taken at both the reconsideration and hearing level from six months to 60 days.

The Committee believes that a 6-month time period is unnecessarily long for a claimant to appeal a title II or title XVIII decision of his claim. In fact, because a mandatory reconsideration has been adopted administratively under this authority, a double period may result. An individual whose claim has been initially denied has a full six months to decide whether to request a reconsideration and then another 6 months to decide whether to appeal to an Administrative Law Judge.

More than 65 percent of the hearings requested are filed within 60 days after the claimants receive notification that their reconsideration had not resulted in the decision being overturned. If the time limit was reduced to 60 days, there may be a decrease in the number of hearing requests filed. Those individuals who have not filed for review within 60 days may file a new application for benefits on the basis of new evidence or changed condition which in most instances can be adjudicated more speedily at the initial determination level. Also, reducing the time limit would result in a reduction in administrative costs and, perhaps most importantly would be beneficial in that less case development would be needed at the hearing level. This situation has played a major role in delaying decisions in appealed cases. Often hearings filed in the 4th, 5th, or 6th months following the reconsideration determination are virtually new cases and call for extensive medical and vocational development which takes the ALJ away from his primary role of deciding cases. In order to assure that the rights of individuals are not adversely affected, your Committee has instructed the Social Security Administration to undertake an extensive public information program which will advise social security applicants of the shortened length of time for filing an appeal.

Extending the time limit for requesting SSI hearings would make the limit generally consistent with the time limit applicable to Social Security, Black Lung, and most Medicare claims and would be beneficial from a procedural and administrative standpoint particularly in concurrent benefit cases. The Social Security Administration informed the Committee that currently it is granting many waivers for late filing of SSI appeals, and extending the present 30 day period will give more reality to present procedures.

OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill. The bill was ordered reported by a unanimous voice vote.

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As a result of hearings conducted in September and October of this year by the Subcommittee on Social Security your committee concluded that it would be desirable to enact legislation to expedite the holding of hearings for social security claimants as is provided in H.R. 10727.

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives your committee states that this bill will involve no new budgetary authority or new or increased tax expenditures.

With respect to clause 2(1)(3)(C) and clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives your committee advises that no estimate or comparison has been submitted to your committee by the Director of the Congressional Budget Office relative to H.R. 10727, nor have any oversight findings or recommendations been submitted to your committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives your committee states that this bill would not have any inflationary impact on prices and costs in the operation of the national economy.

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the cost of the bill: Your Committee estimates that there will be no additional program costs and possibly a slight savings in administrative costs this fiscal year and each of the following five fiscal years, as a result of the enactment of this legislation. The Department of HEW agrees with the Committee's estimate.

SECTION-BY-SECTION ANALYSIS OF H.R. 10727

Section 1 of the bill would revise Section 1631(c) of the Social Security Act to provide to an applicant for benefits under title XVI of that Act the same rights to administrative and judicial review that Section 205(b) of that Act provides with respect to claims for benefits under titles II and XVIII of the Social Security Act.

The principal modifications to Section 1631(c)—which provides general authority to the Secretary of Health, Education, and Welfare to conduct hearings—would be:

(1) to include a specific requirement that decisions after a hearing must be on the basis of evidence adduced at the hearing;

(2) to make the final determination of the Secretary subject to the substantial evidence rule upon judicial review; the provision in current law (Sec. 1631(c)(3)) which provides that the determinations of the Secretary "as to any fact shall be final and conclusive and not subject to review by any court" would be repealed;

(3) to increase the period during which requests for review may be filed from 30 days to 60 days;

(4) to provide specific authority for the Secretary to hold hearings and make findings of fact, administer oaths, examine witnesses and receive evidence; and

(5) to authorize the Secretary to receive evidence at a hearing even though inadmissible under the rules of evidence applicable to court procedure.

Section 2 would repeal Section 1631(d)(2), thus terminating the authority of the Secretary of Health, Education, and Welfare to appoint individuals as hearing examiners to conduct hearings under title XVI.

Section 3 would authorize individuals who were appointed under Section 1631(d)(2) of the Social Security Act prior to enactment of the bill to conduct hearings under titles II (Social Security), XVI (SSI) and XVIII (Medicare) of the Social Security Act when the Secretary of Health, Education, and Welfare finds that it will promote the achievement of the objectives of those titles and notwithstanding the fact that these individuals were not appointed as Administrative Law Judges under the Administrative Procedure Act (5 U.S.C. section 3105). The appointments made prior to enactment under Section 1631(d)(2) may be continued until December 31, 1978. Until such date these individuals shall be deemed hearing examiners (ALJs) appointed under such section 3105 of title V and subject to subchapter II of Chapter 5 of such title, to the second sentence of such section 3105, and to all of the other provisions of such title 5 which apply to hearing examiners appointed under such section 3105.

Section 4 would amend Section 205(b) of the Social Security Act to specify that a request for a hearing under title II may not be filed later than sixty days after an individual receives notice of an adverse decision with respect to his rights to benefits. Under existing law, such requests may be filed within such time period as the Secretary specifies by regulation but the period cannot be less than six months after notice is mailed.

Section 5 would provide that the provisions of the bill take effect on enactment, except that the provisions which would reduce the period in which a request for a hearing may be filed would be effective only with respect to an adverse decision notice of which is received on or after the date of enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * *

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

* * * * *

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) * * *

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(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the

Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such decision must be filed within [such period after such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed may not be less than six months after notice of such decision is mailed to] *sixty days after notice of such decision is received* by the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

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TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

* * * * *

PART B—PROCEDURAL AND GENERAL PROVISIONS PAYMENTS AND PROCEDURES

PAYMENT OF BENEFITS

SEC. 1631. (a) (1) * * *

* * * * *

Hearings and Review

(c) (1) *The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title. The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within [thirty] sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.*

(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves [the existence of] a disability

(within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205; except that the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by any court.

Procedures; Prohibitions of Assignments; Representation of Claimants

(d) (1) The provisions of section 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

[(2) To the extent the Secretary finds it will promote the achievement of the objectives of this title, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (c) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code.]

[(3)](2) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this title, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both.

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Report of the Committee on
Finance, to accompany
H.R. 10727, Senate Report
No. 94-550.

SOCIAL SECURITY APPEALS AND ADMINISTRATION

DECEMBER 12, 1975.—Ordered to be printed

MR. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 10727]

The Committee on Finance, to which was referred the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

The bill as passed by the House of Representatives made certain modifications in the provisions of the Social Security Act dealing with the appeals process under programs administered by the Social Security Administration. The committee modified the effective date of one of the provisions in the House bill and added to the bill a number of amendments as described below.

SOCIAL SECURITY HEARINGS AND APPEALS

The programs administered by the Social Security Administration presently have a huge backlog of some 103,000 cases awaiting a hearing. The committee bill would attempt to alleviate this problem by making certain changes in the social security hearings and appeals processes. The bill would make the provisions of law governing hearings and judicial review under the supplemental security income (SSI) program virtually identical to those of the social security cash benefit and medicare programs. It would permit the Social Security Administration to use existing SSI hearing examiners to also hear

social security and medicare cases between now and the end of 1978. In addition, the bill would change the time in which a person could request a hearing after a claim had been disallowed. For both social security cases and SSI cases, the time would be 60 days—an increase from 30 days for SSI claims and a decrease from 6 months for social security claims. The bill as passed by the House and as approved by the committee is effective on enactment except that the effective date of the reduction in the time for filing a request for hearings in social security cases would be March 1, 1976.

POLICEMEN AND FIREMEN IN WEST VIRGINIA

The Social Security Amendments of 1972 included a provision which allowed the State of West Virginia to modify its social security coverage agreements so as to provide social security protection to certain policemen and firemen who had erroneously paid social security taxes in the belief that they were covered. Under the 1972 amendments, the State of West Virginia had to amend its agreement with the Social Security Administration before 1974. The State, however, has not made the necessary amendment in its agreement, and the committee bill provides an extension through 1977 of the time in which the agreement may be changed.

DEPOSIT OF SOCIAL SECURITY CONTRIBUTIONS BY STATE AND LOCAL GOVERNMENTS

Under the committee bill, the Secretary of Health, Education, and Welfare would be required to give notice at least 18 months in advance of any changes he proposes to make in the way in which social security contributions are paid by State and local governments. This would assure that States would be given ample leadtime to implement any changes and would also give Congress an opportunity to review any changes which the Secretary might propose.

ANNUAL REPORTING OF SOCIAL SECURITY WAGES

The committee bill includes a provision which is designed to reduce the tax reporting burdens of the nation's employers. Under the provision, the Secretaries of the Treasury and of Health, Education, and Welfare would be given the authority needed to exchange information so that social security reports of individual earnings could be made once each year rather than once each quarter.

The provision would not affect the responsibility of employers for collection and payment of social security taxes nor would it change the requirements as to when these payments are due. It would not have any effect on the way in which State and local Governments pay or report social security contributions to the Social Security Administration. Payments by both private employers and State and local Government units would continue to be made in the same way that they are made under existing law.

II. GENERAL EXPLANATION OF THE BILL

A. SOCIAL SECURITY HEARINGS AND APPEALS

NEED FOR LEGISLATION

The programs administered by the Social Security Administration now have a huge backlog of some 103,000 cases awaiting hearing. Half of all hearings take more than seven months to process, and the average processing time from initial application to hearing decision is some 20 months. A major barrier to reducing the backlog is the inability to use the hearing examiners appointed for the supplemental security income program for cases involving eligibility under Title II of the Social Security Act. Although the major factor in both SSI and title II hearings is the title II definition of disability, the Civil Service Commission overruled the Department of Health, Education, and Welfare and refused to allow that agency to employ administrative law judges to conduct SSI hearings.

Within recent months the Social Security Administration Bureau of Hearings and Appeals has made significant gains in increasing the productivity of administrative law judges (ALJs) with the result that the current case backlog is being reduced by 1,000 cases a month. If the authority in this bill is enacted it has been estimated that the hearing backlog will be reduced by 3,000 a month so that in 18 months cases can be adjudicated within 90 days.

While the committee thus expects that this bill will significantly alleviate the current crisis situation with respect to social security hearings, it is aware that suggestions have been made for more basic structural changes in the hearings procedures and the administration of the disability programs. The committee notes that the report of the House of Representatives on this bill indicates an intent to undertake comprehensive social security legislation in 1976 in connection with which such changes could be considered. The House report also recommends that the Social Security Administration authorize the Center for Administrative Justice to make a study of the social security appeals procedures and make recommendations for any structural changes relating to improving both the speed and quality of social security adjudications. This study would address the issue of whether the current appeals system under the Administrative Procedure Act (APA) is in the public interest together with such subjects as the appropriate qualifications, method of appointment, and position and grade classification of social security ALJs.

CONFORMING SSI AND SOCIAL SECURITY APPEALS PROCEDURES

(Section 1 of the Bill)

The first provision of the bill would amend Section 1631(c) of the Social Security Act to provide the same rights to hearing and administrative and judicial review with respect to claims under title XVI (Supplemental Security Income) of the Act as apply to title II

(social security) and title XVIII (medicare) claims under section 205(b) and 205(g) of the Act. This is necessary to override an interpretation of the Civil Service Commission that the Administrative Procedure Act was not applicable to SSI hearings and which required the appointment of non-APA hearing officers who could not hear social security and medicare cases. This action greatly exacerbated the current hearing crisis and the validity of SSI hearings has been challenged in the courts as second class justice. The committee bill will put this matter to rest by clearly providing on-the-record administrative hearings and judicial review of a parallel nature for social security, SSI, and medicare claimants.

The principal modifications to section 1631(c), which now provides general authority to the Secretary of Health, Education, and Welfare to conduct hearings on SSI appeals, would be:

(1) the specific requirement that decisions after a hearing must be on the basis of evidence adduced at the hearing;

(2) an increase in the period during which requests for review must be filed from 30 days to 60 days;

(3) the addition of specific authority for the Secretary to hold hearings and make findings of fact, administer oaths, examine witnesses and receive evidence; and authority to receive evidence at a hearing even though inadmissible under the rules of evidence applicable to court procedure;

(4) to make the final determinations of the Secretary subject to the "substantial evidence rule" upon judicial review by eliminating language now in section 1631(c)(3) which provides that the determinations of the Secretary "as to any fact shall be final and conclusive and not subject to review by any court".

The principal effect of this last modification is to apply the same rules of judicial review to title XVI cases as apply to title II cases. By removing this language from title XVI, findings of fact of the Secretary in SSI cases, if supported by substantial evidence, shall be conclusive as are such findings under title II. The committee believes that both programs should be under the "substantial evidence rule", but that this should not be interpreted by the courts as a license to vary from strict adherence to its principles. With over 4,000 social security disability cases now pending in the United States District Courts, and the possibility of a similar caseload developing in the SSI program, when its appeals are fully felt, making *de novo* factual determinations at the judicial level could result in very serious problems for the federal judiciary and the social security program.

REPEAL OF SPECIAL APPOINTMENT AUTHORITY

(Section 2 of the Bill)

The committee bill would repeal section 1631(d)(2) of the Social Security Act.

This is the section of the law under which, pursuant to Civil Service Commission interpretation, non-APA hearing examiners have been appointed. The continuation of this authority is inappropriate inasmuch as title XVI cases in the future will require APA hearing officers. The committee believes that an adequate supply of APA

hearing officers can be obtained from the current pool of SSI hearing examiners and Black Lung ALJs who meet, or will meet, the requirements for regular appointments and through the on-going recruitment by the Civil Service Commission of ALJs in the private and governmental sectors.

USE OF SSI HEARING EXAMINERS FOR SOCIAL SECURITY AND MEDICARE CASES

(Section 3 of the Bill)

The committee bill also grants authority for those SSI hearing examiners (who have been appointed under section 1631(d)(2) to hear cases under titles II, XVI, and XVIII until December 31, 1978 as temporary administrative law judges if the Secretary of HEW finds it will promote the achievement of the objectives of these titles. It is the committee's understanding that the Secretary will make this finding as to all SSI hearing examiners who have been appointed. The committee also understands that now virtually all the temporary Black Lung judges hold SSI hearing examiner appointments and this would provide the Bureau of Hearings and Appeals the 200 judges it needs to reduce the backlog. Furthermore, by the end of 1978, all SSI examiners will have acquired sufficient adjudicative experience to meet the experience requirement for appointment as regular ALJs. They would, as they met the experience requirement, be afforded the opportunity to be placed on the register for regular ALJ appointment on a merit basis under the regular Civil Service procedures.

It is hoped that these requirements and procedures will be applied in a manner to effectively serve the needs of the Social Security Act programs. The performance of the Civil Service Commission Office of Administrative Law Judges in overruling the administering agency (HEW) in its legal opinion that SSI was under the APA does not reflect the will of Congress.

The Office of Administrative Law Judges should be mindful of its ministerial responsibilities in supplying registers from which adequate numbers of ALJs can be hired by HEW to adjudicate social security claims. There are indications that in the past these registers have not been supplied with the speed and with the number of candidates thereon which HEW needed to get better control over the hearings backlog. In evaluating current SSI hearings examiners for regular ALJ appointments great weight should be given to experience in actually adjudicating social security and Black Lung cases and roadblocks should not be created through unduly lengthy and bureaucratic appointment procedures.

To avoid any possible misinterpretation, the bill specifically provides that the temporary hearing officers authorized to conduct hearings under the bill would be subject to all the provisions of the Administrative Procedure Act that assure independence from agency control. These provisions would include: Subchapter II of chapter 5 of title 5 of the United States Code (the substantive provisions relating to APA adjudications); the second sentence of section 3105, of title 5 U.S.C. (assignment of cases in rotation and the prohibition of assignment to duties inconsistent with their responsibilities as hear-

ing officers) ; and the deeming of them as hearing examiners appointed under section 3105 so that, among other things, they would be exempt from agency performance rating requirements (5 U.S.C. 4301(2) (E)) and agency determination of performance acceptability for in-grade increases (5 U.S.C. 5335(a) (3) (B)) and making Civil Service responsible for determining their pay levels (5 U.S.C. 5362), removal for cause (5 U.S.C. 7521), and general administration (5 U.S.C. 1305). The committee is unaware of any prejudicial "agency control" exercised by HEW under the parallel provisions it has established for SSI hearing examiners. However, the specific application of these provisions of the APA, together with the provisions of the bill applying the same procedural safeguards to review proceedings under title XVI as apply under title II, should eliminate the possibility of the courts determining that SSI review procedures do not comply with the Administrative Procedure Act or due process.

Moreover, the specific enumeration of these provisions of the APA as applicable to the temporary ALJs should not be interpreted to make these adversary proceedings or otherwise "judicialize" procedures under title II, XVI, and XVIII. The enumeration of these provisions also should in no way suggest that they are not applicable to the regular Social Security ALJs. The committee and the Department of HEW consistently over the years have declared that the language in title II (and under the provisions of this bill, title XVI) of the Social Security Act call for "on-the-record" hearings which invoke the provisions of the Administrative Procedure Act.

Although the bill is silent on the grade level of temporary Administrative Law Judges, the committee notes that the report on this legislation received from the Department indicates agreement with the view expressed in the report of the House of Representatives on the bill that a grade level of GS-14 would be appropriate.

REDUCTION OF APPEAL PERIOD FOR SOCIAL SECURITY CLAIMS

(Section 4 of the Bill)

The Committee bill would reduce the period within which social security and medicare appeals may be taken at both the reconsideration and hearing level from six months to 60 days.

The committee believes that a 6-month time period is unnecessarily long for a claimant to appeal a title II or title XVIII decision on his claim. In fact, because a mandatory reconsideration has been adopted administratively under this authority, a double period may result. An individual whose claim has been initially denied has a full six months to decide whether to request a reconsideration and then another 6 months to decide whether to appeal to an administrative law judge.

More than 65 percent of the hearings requested are filed within 60 days after the claimants receive notification that their reconsideration had not resulted in the decision being overturned. If the time limit is reduced to 60 days, there may be a decrease in the number of hearing requests filed. Those individuals who do not file for review within 60 days may file a new application for benefits on the basis of new evidence or changed condition which in most instances can be adjudicated more speedily at the initial determination level. Also, reducing

the time limit would result in a reduction in administrative costs and, perhaps most importantly would be beneficial in that less case development would be needed at the hearing level. The need for additional development has played a major role in delaying decisions in appealed cases. Often hearings filed in the 4th, 5th, or 6th months following the reconsideration determination are virtually new cases and call for extensive medical and vocational development which takes the ALJ away from his primary role of deciding cases.

In order to assure that the rights of individuals are not adversely affected, the committee has provided that this change not be effective until March 1, 1976. This will allow the Social Security Administration time to advise social security applicants of the shortened length of time for filing an appeal.

B. WEST VIRGINIA POLICEMEN AND FIREMEN

(Section 6 of the Bill)

The committee has been informed that certain policemen and firemen in West Virginia have been paying social security contributions but that the Social Security Administration ruled (and the courts have agreed) that the law does not provide for this coverage. Under the law, policemen in West Virginia are not allowed coverage if they are also covered under a State or local retirement program and firemen under a State or local retirement program are not allowed coverage unless certain specified conditions are met. The laws of West Virginia require certain local governments to provide a retirement program for their employees, including policemen and firemen, but some of the local governments have not provided the programs and instead have relied on social security coverage to provide retirement, disability, and survivor insurance for their employees. Because this coverage for policemen and firemen, but not for other employees has been determined to be in conflict with the present law, the committee bill includes a provision which will permit the State of West Virginia to modify its social security coverage agreements to provide retroactive coverage for the policemen and firemen who have paid social security contributions in the past and to continue this coverage in the future for those police and fire departments affected.

A similar provision was included in the Social Security Amendments of 1972 but the State did not make the necessary modifications in its social security coverage agreements within the time limits specified in that legislation. The present bill will extend the time when such a change may be made to 1977.

C. DEPOSIT OF SOCIAL SECURITY CONTRIBUTIONS BY STATE AND LOCAL GOVERNMENTS

(Section 7 of the Bill)

Employees of State and local governments are not mandatorily covered under the social security program. Under legislation enacted in 1950, however, States are permitted on a voluntary basis to enter into agreements with the Department of Health, Education, and Welfare for the coverage under the program of State and local employees.

The extent of such coverage varies from State to State and the agreements under which each State covers certain of its employees and the employees of political subdivisions are quite complex. Under these coverage agreements, States are required to pay to the Social Security Administration contributions which are the equivalent of the social security taxes which the Internal Revenue Service collects from private employers.

The Social Security Act provides that, insofar as practicable, the Social Security Administration should require States to deposit these contributions in a manner consistent with the requirements for depositing social security taxes imposed on private employers. Up to the present, however, the requirements imposed upon the States with respect to the frequency of deposit have been quite different from the requirements imposed upon private employers. Large private employers are required to deposit social security taxes withheld as often as weekly, and moderate-sized employers must make these deposits monthly. Quarterly deposits are permitted for employers with quite small payrolls. In the case of State and local Government employees, however, the present regulations of the Department of Health, Education, and Welfare require that deposits be made by the middle of the second month after the end of each quarter.

The Social Security Administration has indicated that it is considering the promulgation of a regulation which would require the States to deposit social security contributions more frequently. The agency believes that such a change would result in significantly higher interest earnings for the social security trust funds and that the change would be consistent with the provision of law requiring that the State procedures be comparable with the procedures used by private employers. State social security administrators have expressed doubts that such a change is, in fact, practicable since many local governments have relatively unsophisticated accounting arrangements. Moreover, the argument is made that such a change represents a unilateral revocation of the voluntary agreements under which the State coverage was established many years ago.

The Committee is advised that the Social Security Administration and the State social security administrators are jointly undertaking a study designed to develop more adequate information as to the actual implications of a change in existing deposit procedures. To assure that this information will be available before any change is made and to assure that no change in deposit procedures will be abruptly instituted, the committee bill would prohibit the Department of Health, Education, and Welfare from making any significant changes in the deposit requirements without allowing lead time of at least 18 months from the time of publication in the Federal Register of the final regulations making such a change.

The committee believes that this amendment will permit the Department to develop whatever proposal with respect to the deposit of State and local contributions it may feel is justified on the basis of information obtained from the current study while at the same time assuring that Congress will have adequate notice of any such proposed change and will be able to enact further legislation as may appear appropriate.

D. ANNUAL REPORTING OF SOCIAL SECURITY WAGES

(Section 8 of the Bill)

The committee added a provision to the House-passed bill which is designed to reduce the tax reporting burden of the Nation's employers. Under the committee provision, the Secretaries of the Treasury and of Health, Education, and Welfare would be provided with the authority they need to exchange information on a basis which would make it possible to change social security tax reporting from a quarterly basis to an annual basis. The committee provision originated in the recommendations of several Governmental study groups and its adoption would conclude approximately two decades of study and negotiation between the two departments involved.

Under existing Treasury department regulations, employers are required to submit quarterly reports of the wages paid to their employees which are subject to social security taxes. These reports, on Treasury Form 941-A, must list each employee by name, social security account number, and total wages paid to the employee with respect to which social security taxes are payable. The preparation and filing of this quarterly report involves considerable effort and expense on the part of employers particularly in the case of small and medium-sized companies which do not have the advantage of computerized payroll systems. An April 17, 1973 report issued by the Select Committee on Small Business stated that its Subcommittee on Government Regulation had found studies indicating that the annual cost to small employers of submitting this form might total as much as \$235 million (Senate Report No. 93-125, p. 49).

The committee provision would make possible the elimination of quarterly reports by changing certain technical requirements of the social security program which currently depend on data from the Form 941-A and by providing the Internal Revenue Service and the Social Security Administration authority which would enable them to enter into an agreement for cooperative processing of a revised annual wage reporting form (i.e. Form W-2) in a manner which will most effectively and efficiently provide each agency with the information it requires. Thus, in place of the present requirement that each employer submit 5 reports per year with respect to each employee (4 quarterly reports on Form 941-A and 1 annual report on Form W-2), the committee provision makes possible a revision in Treasury Department regulations to permit employers to file a single consolidated annual wage report for each employee which will show both his total earnings for the year and the quarterly breakdown of his social security earnings.

The present Form 941-A provides for wage information used by the Social Security Administration as the source of data for computing the automatic increases in the amount of annual earnings subject to social security taxes (the social security "wage base") and in the amount of annual earnings which a beneficiary may have without any reduction in his social security benefits (the "exempt amount.") Under existing law, whenever an increase in the cost of living triggers an automatic

social security benefit increase, the Secretary of Health, Education, and Welfare is required to promulgate regulations increasing the wage base and the exempt amount.

Under current law these increases are based on the percentage rise in the average amount of taxable wages up to the first quarter of the year in which the determination of the amount of the increase is made, and the increases become effective as of the start of the following year. If employee wages are reported annually rather than quarterly, however, the necessary data to compute the increase in wage base and exempt amount would not be available until well after the beginning of the year in which the increases are to be effective. The committee provision, therefore, moves back by one year the base period to be used for determining the amount of increases in taxable wages so that the Secretary of Health, Education, and Welfare will have sufficient time to make his determinations on the basis of an annual wage report. (However, no change is made in the benefit increase provisions of present law.) Thus, for example, the increase in the wage base and exempt amount which is to be effective as of January 1, 1977 would be computed according to the growth rate in average taxable wages from the first quarter of 1974 to the first quarter of 1975 rather than according to the growth rate from the first quarter of 1975 to the first quarter of 1976.

Current law bases the automatic increases in the wage base and exempt amount on the rise in average taxable wages from the first quarter of one year to the first quarter of the next year rather than on the annual increase in wage levels generally because the Social Security Administration does not now receive the information necessary to make a determination based on average annual wages in all employment. When the revised reporting regulations made possible by the committee provision are implemented, this information will become available. Accordingly, the committee bill provides that, starting in 1978, determinations as to the amount of future automatic increases in the annual amount of earnings subject to social security taxes and in the amount of annual earnings a beneficiary can have without reduction in benefits will be based on the growth from year to year in average annual wages in all employment rather than on the growth of the amount of wages subject to social security taxes in the first quarter of each year. As a practical matter, it is estimated that there will be negligible impact on the way in which the automatic increase provisions will operate, since the annual rate of growth is approximately the same for average first quarter taxable wages, average annual wages in employment covered by social security, and average annual wages in the national economy.

The committee provision would not affect the responsibility of employers for the collection and payment of social security taxes nor would it alter in any way the requirements as to the dates on which payments of these taxes are due. The provision would make no change in the amount of work required in order to qualify for social security benefits and no change would be made in the way benefits are computed. Moreover, it would not have any impact on the financial status of the social security program.

In addition, the committee amendment provides that the amendment would have no effect on the way in which State and local governments report earnings to the Social Security Administration. The situation with respect to State and local government employment covered by social security is different than the situation with respect to private employment, and the procedures for reporting wages are governed by agreements between the States and the Secretary of Health, Education, and Welfare. A wide variety of patterns exists with respect to the types of State and local employment which are or are not covered under a multiplicity of agreements between the States and the Federal government and, in turn, between the States and local governmental entities. The existing reporting procedures, therefore, serve not only the requirements of the Social Security Administration but also the requirements of the State agencies which are responsible for coordinating the activities with respect to social security of the various governmental employers within each State. Accordingly, the Committee bill would not authorize the Secretary of Health, Education, and Welfare to modify the regulations and procedures with respect to the reporting of social security wages in the case of State and local employees except to the extent that modifications may be agreed upon between him and the States involved.

III. COST OF CARRYING OUT THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out the bill.

The committee estimates that this legislation would have virtually no impact on Federal expenditures. The provision authorizing certain coverage for West Virginia policemen and firemen could have a negligible impact on social security benefit payments. The provisions relating to the social security hearing process, according to estimates received from the Department of Health, Education, and Welfare, would not affect benefit costs but could reduce administrative expenses by \$16.3 million in fiscal years 1977 through 1981. The other provisions of the bill have no cost impact.

IV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the bill. The bill was ordered reported by voice vote.

V. CHANGES IN EXISTING LAW MADE BY THE BILL. AS REPORTED

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted

is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*) :

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND

SEC. 201. (a) * * *

* * * * *

(g) (1) (A) [There are authorized to be made available for expenditure, out of any or all of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII), such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI and title XVIII for which the Secretary of Health, Education, and Welfare is responsible. During each fiscal year or after the close of such fiscal year (or at both times), the Secretary of Health, Education, and Welfare shall analyze the costs of administration of this title, title XVI and title XVIII during the appropriate part or all of such fiscal year in order to determine the portion of such costs which should be borne by each of the Trust Funds and (with respect to title XVI) by the general revenues of the United States and shall certify to the Managing Trustee the amount, if any, which should be transferred among such Trust Funds in order to assure that (after appropriations made pursuant to section 1601, and repayment to the Trust Funds from amounts so appropriated) each of the Trust Funds and the general revenues of the United States bears its proper share of the costs incurred during such fiscal year for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible. The Managing Trustee is authorized and directed to transfer any such amount (determined under the preceding sentence) among such Trust Funds in accordance with any certification so made.

[(B) The Managing Trustee is directed to pay from the Trust Funds into the Treasury the amounts estimated by him which will be expended, out of moneys appropriated from the general funds in the Treasury, during each calendar quarter by the Treasury Department for the part of the administration of this title and title XVIII for which the Treasury Department is responsible and for the administration of chapters 2 and 21 of the Internal Revenue Code of 1954. Such payments shall be covered into the Treasury as repayment to the account for reimbursement of expenses incurred in connection with such administration of this title and title XVIII and chapters 2 and 21 of the Internal Revenue Code of 1954.]

The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the Trust Funds into the Treasury—

(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II, XVI and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less.

(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust

Funds, and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.”.

(2) The Managing Trustee is directed to pay from time to time from the Trust Funds into the Treasury the amount estimated by him as taxes imposed under section 3101(a) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 1426 of the Internal Revenue Code of 1939 and section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1950. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code of 1939 and to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections. Payments pursuant to the first sentence of this paragraph shall be made from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in the ratio in which amounts were appropriated to such Trust Funds under clause (3) of subsection (a) of this section and clause (1) of subsection (b) of this section.

(3) Repayments made under paragraph (1) or (2) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under either such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(4) *The Board of Trustees shall prescribe before January 1, 1981, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1) (A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined.*

REDUCTION OF INSURANCE BENEFITS

MAXIMUM BENEFITS

SEC. 203. (a) * * *

* * * * *

(f) For purposes of subsection (b)—

(1) * * *

* * * * *

(8) (A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the month of June following a cost-of-living computation quarter he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year).

(B) The exempt amount for each month of a particular taxable year shall be whichever of the following is the larger—

(i) the exempt amount which was in effect with respect to months in the taxable year in which the determination under subparagraph (A) was made, or

(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the [taxable] wages of all employees as reported to the Secretary of the Treasury for [the first calendar quarter of] the calendar year *preceding the calendar year* in which the determination under subparagraph (A) was made to (II) the average of the [taxable] wages of all employees as reported to the Secretary of the Treasury for the [first calendar quarter of 1973] *calendar year 1973*, or, if later, the [first calendar quarter of] *calendar year preceding* the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under section 230(a), with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such product is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case.

For purpose of this clause (ii), the average of the wages for the calendar year 1977 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1978, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

* * * * *

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) * * *

* * * * *

(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such decision must be filed within [such period after such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed, may not be less than six months after notice of such decision is mailed to] *sixty days after notice of such decision is received by* the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to the court procedure.

* * * * *

REDUCTION OF BENEFITS BASED ON DISABILITY ON ACCOUNT OF RECEIPT OF WORKMEN'S COMPENSATION

SEC. 224. (a) * * *

* * * * *

(f) (1) In the second calendar year after the year in which reduction under this section in the total of an individual's benefits under section 223 and any benefits under section 202 based on his wages and self-employment income was first required (in a continuous period of months), and in each third year thereafter, the Secretary shall redetermine the amount of such benefits which are still subject to reduction under this section; but such redetermination shall not result in any decrease in the total amount of benefits payable under this title on the basis of such individual's wages and self-employment income. Such redetermined benefit shall be determined as of, and shall become effective with, the January following the year in which such redetermination was made.

(2) In making the redetermination required by paragraph (1), the individual's average current earnings (as defined in subsection (a)) shall be deemed to be the product of his average current earnings as initially determined under subsection (a) and the ratio of (i) the average of the taxable wages of all persons for whom taxable wages

were reported to the Secretary for the first calendar quarter of the calendar year *before the calendar year* in which such redetermination is made, to (ii) the average of the taxable wages of such persons reported to the Secretary for the first calendar quarter of the taxable year *before the calendar year* in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding sentence which is not a multiple of \$1 shall be reduced to the next lower multiple of \$1.

* * * * *

ADJUSTMENT OF THE CONTRIBUTION AND BENEFIT BASE

SEC. 230. (a) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the contribution and benefit base determined under subsection (b) which shall be effective with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

(b) The amount of such contribution and benefit base shall be the amount of the contribution and benefit base in effect in the year in which the determination is made or, if larger, the product of—

(1) the contribution and benefit base which was in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) with respect to such particular calendar year was made, and

(2) the ratio of (A) the average of the [taxable] wages of all employees as reported to the Secretary *of the Treasury* for the [first calendar quarter of the] calendar year *preceding the calendar year* in which the determination under subsection (a) with respect to such particular calendar year was made to [the latest of] (B) the average of the [taxable] wages of all employees as reported to the Secretary *of the Treasury* [for the first calendar quarter of 1973 or the first calendar quarter of] *for the calendar year 1973 or, if later, the calendar year preceding* the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a).

with such product, if not a multiple of \$300, being rounded to the next higher multiple of \$300 where such product is a multiple of \$150 but not of \$300 and to the nearest multiple of \$300 in any other case.

For purposes of this subsection, the average of the wages for the calendar year 1977 (or any prior calendar year) shall in the case of determinations made under subsection (a) prior to December 31, 1978, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

* * * * *

PROCESSING OF TAX DATA

SEC. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury.

* * * * *

TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

* * * * *

PART B—PROCEDURAL AND GENERAL PROVISIONS PAYMENTS AND PROCEDURES

PAYMENT OF BENEFITS

SEC. 1631. (a) (1) * * *

* * * * *

Hearings and Review

(c) (1) *The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title. The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within [thirty] sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may*

administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves [the existence of] a disability (within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205 [; except that the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by any court].

Procedures; Prohibitions of Assignments; Representation of Claimants

(d)(1) The provisions of section 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

[(2) To the extent the Secretary finds it will promote the achievement of the objectives of this title, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (c) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code.]

[(3)](2) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this title, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter, or advertisement, or who shall knowingly charge

or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both.

* * * * *

INTERNAL REVENUE CODE OF 1954

* * * * *

SUBTITLE F—PROCEDURE AND ADMINISTRATION

* * * * *

CHAPTER 61—INFORMATION AND RETURNS

* * * * *

SUBCHAPTER B—MISCELLANEOUS PROVISIONS

* * * * *

SEC. 6103. PUBLICITY OF RETURNS AND DISCLOSURE OF INFORMATION AS TO PERSONS FILING INCOME TAX RETURNS

(a) * * *

* * * * *

(f) * * *

(g) *DISCLOSURE OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.*—The Secretary or his delegate is authorized to make available to the Secretary of Health, Education, and Welfare information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective information return processing program.

* * * * *

Public Law 94-241 (H.J. Res. 549),
March 24, 1976, Joint Resolution
to approve the "Covenant To
Establish a Commonwealth of the
Northern Mariana Islands in Political
Union with the United States of
America."



Public Law 94-241
94th Congress, H. J. Res. 549
March 24, 1976

Joint Resolution

To approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", and for other purposes.

Whereas the United States is the administering authority of the Trust Territory of the Pacific Islands under the terms of the trusteeship agreement for the former Japanese-mandated islands entered into by the United States with the Security Council of the United Nations on April 2, 1947, and approved by the United States on July 18, 1947; and

48 USC 1681
note.

Whereas the United States, in accordance with the trusteeship agreement and the Charter of the United Nations, has assumed the obligation to promote the development of the peoples of the trust territory toward self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned; and

Whereas the United States, in response to the desires of the people of the Northern Mariana Islands clearly expressed over the past twenty years through public petition and referendum, and in response to its own obligations under the trusteeship agreement to promote self-determination, entered into political status negotiations with representatives of the people of the Northern Mariana Islands; and

Whereas, on February 15, 1975, a "Covenant to Establish A Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" was signed by the Marianas Political Status Commission for the people of the Northern Mariana Islands and by the President's Personal Representative, Ambassador F. Haydn Williams for the United States of America, following which the covenant was approved by the unanimous vote of the Mariana Islands District Legislature on February 20, 1975 and by 78.8 per centum of the people of the Northern Mariana Islands voting in a plebiscite held on June 17, 1975: Now be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the text of which is as follows, is hereby approved.

Covenant to
Establish a
Commonwealth
of the Northern
Mariana Islands
in Political
Union with the
United States of
America.
Congressional
approval.
48 USC 1681
note.

"COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA

"Whereas, the Charter of the United Nations and the Trusteeship Agreement between the Security Council of the United Nations and the United States of America guarantee to the people of the Northern Mariana Islands the right freely to express their wishes for self-government or independence; and

"Whereas, the United States supports the desire of the people of the Northern Mariana Islands to exercise their inalienable right of self-determination; and

"Whereas, the people of the Northern Mariana Islands and the people of the United States share the goals and values found in the American system of government based upon the principles of government by the consent of the governed, individual freedom and democracy; and

"Whereas, for over twenty years, the people of the Northern Mariana Islands, through public petition and referendum, have clearly expressed their desire for political union with the United States;

"Now, therefore, the Marianas Political Status Commission, being the duly appointed representative of the people of the Northern Mariana Islands, and the Personal Representative of the President of the United States have entered into this Covenant in order to establish a self-governing commonwealth for the Northern Mariana Islands within the American political system and to define the future relationship between the Northern Mariana Islands and the United States. This Covenant will be mutually binding when it is approved by the United States, by the Mariana Islands District Legislature and by the people of the Northern Mariana Islands in a plebiscite, constituting on their part a sovereign act of self-determination.

"ARTICLE I

"POLITICAL RELATIONSHIP

"SECTION 101. The Northern Mariana Islands upon termination of the Trusteeship Agreement will become a self-governing commonwealth to be known as the 'Commonwealth of the Northern Mariana Islands', in political union with and under the sovereignty of the United States of America.

"SECTION 102. The relations between the Northern Mariana Islands and the United States will be governed by this Covenant which, together with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, will be the supreme law of the Northern Mariana Islands.

"SECTION 103. The people of the Northern Mariana Islands will have the right of local self-government and will govern themselves with respect to internal affairs in accordance with a Constitution of their own adoption.

"SECTION 104. The United States will have complete responsibility for and authority with respect to matters relating to foreign affairs and defense affecting the Northern Mariana Islands.

"SECTION 105. The United States may enact legislation in accordance with its constitutional processes which will be applicable to the Northern Mariana Islands, but if such legislation cannot also be made applicable to the several States the Northern Mariana Islands must be specifically named therein for it to become effective in the Northern Mariana Islands. In order to respect the right of self-government guaranteed by this Covenant the United States agrees to limit the exercise of that authority so that the fundamental provisions of this Covenant, namely Articles I, II and III and Sections 501 and 805, may be modified only with the consent of the Government of the United States and the Government of the Northern Mariana Islands.

"ARTICLE II

"CONSTITUTION OF THE NORTHERN MARIANA ISLANDS

"SECTION 201. The people of the Northern Mariana Islands will formulate and approve a Constitution and may amend their Constitution pursuant to the procedures provided therein.

"SECTION 202. The Constitution will be submitted to the Government of the United States for approval on the basis of its consistency with this Covenant and those provisions of the Constitution, treaties and laws of the United States to be applicable to the Northern Mariana Islands. The Constitution will be deemed to have been approved six months after its submission to the President on behalf of the Government of the United States unless earlier approved or disapproved. If disapproved the Constitution will be returned and will be resubmitted in accordance with this Section. Amendments to the Constitution may be made by the people of the Northern Mariana Islands without approval by the Government of the United States, but the courts established by the Constitution or laws of the United States will be competent to determine whether the Constitution and subsequent amendments thereto are consistent with this Covenant and with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands.

Submittal
to U.S.
for approval.

"SECTION 203. (a) The Constitution will provide for a republican form of government with separate executive, legislative and judicial branches, and will contain a bill of rights.

"(b) The executive power of the Northern Mariana Islands will be vested in a popularly elected Governor and such other officials as the Constitution or laws of the Northern Mariana Islands may provide.

"(c) The legislative power of the Northern Mariana Islands will be vested in a popularly elected legislature and will extend to all rightful subjects of legislation. The Constitution of the Northern Mariana Islands will provide for equal representation for each of the chartered municipalities of the Northern Mariana Islands in one house of a bicameral legislature, notwithstanding other provisions of this Covenant or those provisions of the Constitution or laws of the United States applicable to the Northern Mariana Islands.

"(d) The judicial power of the Northern Mariana Islands will be vested in such courts as the Constitution or laws of the Northern Mariana Islands may provide. The Constitution or laws of the Northern Mariana Islands may vest in such courts jurisdiction over all causes in the Northern Mariana Islands over which any court established by the Constitution or laws of the United States does not have exclusive jurisdiction.

"SECTION 204. All members of the legislature of the Northern Mariana Islands and all officers and employees of the Government of the Northern Mariana Islands will take an oath or affirmation to support this Covenant, those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, and the Constitution and laws of the Northern Mariana Islands.

"ARTICLE III

"CITIZENSHIP AND NATIONALITY

"SECTION 301. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provision of law, and who on that date do not owe allegiance to any foreign state, are

declared to be citizens of the United States, except as otherwise provided in Section 302:

"(a) all persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

"(b) all persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, registered to vote in elections for the Marianas Islands District Legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975; and

"(c) all persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands, on that date have been domiciled continuously in the Northern Mariana Islands beginning prior to January 1, 1974.

"SECTION 302. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the Constitution or laws of the United States or any court of record in the Commonwealth in the form as follows:

"I _____ being duly sworn, hereby declare my intention to be a national but not a citizen of the United States."

"SECTION 303. All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States will be citizens of the United States at birth.

"SECTION 304. Citizens of the Northern Mariana Islands will be entitled to all privileges and immunities of citizens in the several States of the United States.

"ARTICLE IV

"JUDICIAL AUTHORITY

District Court
for the North-
ern Mariana
Islands.
Establishment.

"SECTION 401. The United States will establish for and within the Northern Mariana Islands a court of record to be known as the 'District Court for the Northern Mariana Islands'. The Northern Mariana Islands will constitute a part of the same judicial circuit of the United States as Guam.

"SECTION 402. (a) The District Court for the Northern Mariana Islands will have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties or laws of the United States it will have jurisdiction regardless of the sum or value of the matter in controversy.

"(b) The District Court will have original jurisdiction in all causes in the Northern Mariana Islands not described in Subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the District Court solely on

the basis of this subsection, the District Court will be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

“(c) The District Court will have such appellate jurisdiction as the Constitution or laws of the Northern Mariana Islands may provide. When it sits as an appellate court, the District Court will consist of three judges, at least one of whom will be a judge of a court of record of the Northern Mariana Islands.

“SECTION 403. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus and other matters or proceedings will be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in this Article; provided that for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States Court of Appeals for the judicial circuit which includes the Northern Mariana Islands will have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to Subsection 402(c).

“(b) Those portions of Title 28 of the United States Code which apply to Guam or the District Court of Guam will be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in this Article.

“ARTICLE V

“APPLICABILITY OF LAWS

“SECTION 501. (a) To the extent that they are not applicable of their own force, the following provisions of the Constitution of the United States will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were one of the several States: Article I, Section 9, Clauses 2, 3, and 8; Article I, Section 10, Clauses 1 and 3; Article IV, Section 1 and Section 2, Clauses 1 and 2; Amendments 1 through 9, inclusive; Amendment 13; Amendment 14, Section 1; Amendment 15; Amendment 19; and Amendment 26; provided, however, that neither trial by jury nor indictment by grand jury shall be required in any civil action or criminal prosecution based on local law, except where required by local law. Other provisions of or amendments to the Constitution of the United States, which do not apply of their own force within the Northern Mariana Islands, will be applicable within the Northern Mariana Islands only with approval of the Government of the Northern Mariana Islands and of the Government of the United States.

USC prec.
title 1.

“(b) The applicability of certain provisions of the Constitution of the United States to the Northern Mariana Islands will be without prejudice to the validity of and the power of the Congress of the United States to consent to Sections 203, 506 and 805 and the proviso in Subsection (a) of this Section.

"SECTION 502. (a) The following laws of the United States in existence on the effective date of this Section and subsequent amendments to such laws will apply to the Northern Mariana Islands, except as otherwise provided in this Covenant:

"(1) those laws which provide federal services and financial assistance programs and the federal banking laws as they apply to Guam; Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States; the Public Health Service Act as it applies to the Virgin Islands; and the Micronesian Claims Act as it applies to the Trust Territory of the Pacific Islands;

"(2) those laws not described in paragraph (1) which are applicable to Guam and which are of general application to the several States as they are applicable to the several States; and

"(3) those laws not described in paragraph (1) or (2) which are applicable to the Trust Territory of the Pacific Islands, but not their subsequent amendments unless specifically made applicable to the Northern Mariana Islands, as they apply to the Trust Territory of the Pacific Islands until termination of the Trusteeship Agreement, and will thereafter be inapplicable.

"(b) The laws of the United States regarding coastal shipments and the conditions of employment, including the wages and hours of employees, will apply to the activities of the United States Government and its contractors in the Northern Mariana Islands.

"SECTION 503. The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable to them by the Congress by law after termination of the Trusteeship Agreement:

"(a) except as otherwise provided in Section 506, the immigration and naturalization laws of the United States;

"(b) except as otherwise provided in Subsection (b) of Section 502, the coastwise laws of the United States and any prohibition in the laws of the United States against foreign vessels landing fish or unfinished fish products in the United States; and

"(c) the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended.

"SECTION 504. The President will appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be citizens of the Trust Territory of the Pacific Islands who are and have been for at least five years domiciled continuously in the Northern Mariana Islands at the time of their appointments) who will be representative of the federal, local, private and public interests in the applicability of laws of the United States to the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within one year after the termination of the Trusteeship Agreement, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate to facilitate the transition of the Northern Mariana Islands to its new political status. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Northern Mariana Islands,

42 USC 428,
1381.
42 USC 201
note.
50 USC app.
2018.

29 USC 206.
Commission on
Federal Laws.

Membership.

Reports to
Congress.

the policies embodied in the law and the provisions and purposes of this Covenant. The United States will bear the cost of the work of the Commission.

“SECTION 505. The laws of the Trust Territory of the Pacific Islands, of the Mariana Islands District and its local municipalities, and all other Executive and District orders of a local nature applicable to the Northern Mariana Islands on the effective date of this Section and not inconsistent with this Covenant or with those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana Islands will remain in force and effect until and unless altered by the Government of the Northern Mariana Islands.

“SECTION 506. (a) Notwithstanding the provisions of Subsection 503(a), upon the effective date of this Section the Northern Mariana Islands will be deemed to be a part of the United States under the Immigration and Nationality Act, as amended for the following purposes only, and the said Act will apply to the Northern Mariana Islands to the extent indicated in each of the following Subsections of this Section.

8 USC 1101
note.

“(b) With respect to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands the provisions of Sections 301 and 308 of the said Act will apply.

8 USC 1401,
1408.
"Immediate
relatives."
8 USC 1151.

“(c) With respect to aliens who are ‘immediate relatives’ (as defined in Subsection 201(b) of the said Act) of United States citizens who are permanently residing in the Northern Mariana Islands all the provisions of the said Act will apply, commencing when a claim is made to entitlement to ‘immediate relative’ status. A person who is certified by the Government of the Northern Mariana Islands both to have been a lawful permanent resident of the Northern Mariana Islands and to have had the ‘immediate relative’ relationship denoted herein on the effective date of this Section will be presumed to have been admitted to the United States for lawful permanent residence as of that date without the requirement of any of the usual procedures set forth in the said Act. For the purpose of the requirements of judicial naturalization, the Northern Mariana Islands will be deemed to constitute a State as defined in Subsection 101(a) paragraph (36) of the said Act. The Courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be included among the courts specified in Subsection 310(a) of the said Act and will have jurisdiction to naturalize persons who become eligible under this Section and who reside within their respective jurisdictions.

8 USC 1101.

8 USC 1421.

“(d) With respect to persons who will become citizens or nationals of the United States under Article III of this Covenant or under this Section the loss of nationality provisions of the said Act will apply.

“ARTICLE VI

“REVENUE AND TAXATION

“SECTION 601. (a) The income tax laws in force in the United States will come into force in the Northern Mariana Islands as a local territorial income tax on the first day of January following the effective date of this Section, in the same manner as those laws are in force in Guam.

“(b) Any individual who is a citizen or a resident of the United States, of Guam, or of the Northern Mariana Islands (including a

national of the United States who is not a citizen), will file only one income tax return with respect to his income, in a manner similar to the provisions of Section 935 of Title 26, United States Code.

"(c) References in the Internal Revenue Code to Guam will be deemed also to refer to the Northern Mariana Islands, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof or of this Covenant.

Additional taxes
levied by Island
government.

"SECTION 602. The Government of the Northern Mariana Islands may by local law impose such taxes, in addition to those imposed under Section 601, as it deems appropriate and provide for the rebate of any taxes received by it, except that the power of the Government of the Northern Mariana Islands to rebate collections of the local territorial income tax received by it will be limited to taxes on income derived from sources within the Northern Mariana Islands.

"SECTION 603. (a) The Northern Mariana Islands will not be included within the customs territory of the United States.

"(b) The Government of the Northern Mariana Islands may, in a manner consistent with the international obligations of the United States, levy duties on goods imported into its territory from any area outside the customs territory of the United States and impose duties on exports from its territory.

"(c) Imports from the Northern Mariana Islands into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States.

"(d) The Government of the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Mariana Islands and will encourage other countries to consider the Northern Mariana Islands a developing territory.

"SECTION 604. (a) The Government of the United States may levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Mariana Islands in the same manner and to the same extent as such taxes are applicable within Guam.

"(b) The Government of the Northern Mariana Islands will have the authority to impose excise taxes upon goods manufactured, sold or used or services rendered within its territory or upon goods imported into its territory, provided that such excise taxes imposed on goods imported into its territory will be consistent with the international obligations of the United States.

U.S. property,
exclusion from
customs duties.

"SECTION 605. Nothing in this Article will be deemed to authorize the Government of the Northern Mariana Islands to impose any customs duties on the property of the United States or on the personal property of military or civilian personnel of the United States Government or their dependents entering or leaving the Northern Mariana Islands pursuant to their contract of employment or orders assigning them to or from the Northern Mariana Islands or to impose any taxes on the property, activities or instrumentalities of the United States which one of the several States could not impose; nor will any provision of this Article be deemed to affect the operation of the Soldiers and Sailors Civil Relief Act of 1940, as amended, which will be applicable to the Northern Mariana Islands as it is applicable to Guam.

50 USC app.
501.

Northern Mari-
ana Islands
Social Security
Retirement
Fund, transfer
to U.S. Treas-
ury.

"SECTION 606. (a) Not later than at the time this Covenant is approved, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Mariana Islands will be transferred to the Treasury of the United States, to be held in trust as a

separate fund to be known as the 'Northern Mariana Islands Social Security Retirement Fund'. This fund will be administered by the United States in accordance with the social security laws of the Trust Territory of the Pacific Islands in effect at the time of such transfer, which may be modified by the Government of the Northern Mariana Islands only in a manner which does not create any additional differences between the social security laws of the Trust Territory of the Pacific Islands and the laws described in Subsection (b). The United States will supplement such fund if necessary to assure that persons receive benefits therefrom comparable to those they would have received from the Trust Territory Social Security Retirement Fund under the laws applicable thereto on the day preceding the establishment of the Northern Mariana Islands Social Security Retirement Fund, so long as the rate of contributions thereto also remains comparable.

Administration.

"(b) Those laws of the United States which impose excise and self-employment taxes to support or which provide benefits from the United States Social Security System will upon termination of the Trusteeship Agreement or such earlier date as may be agreed to by the Government of the Northern Mariana Islands and the Government of the United States become applicable to the Northern Mariana Islands as they apply to Guam.

"(c) At such time as the laws described in Subsection (b) become applicable to the Northern Mariana Islands:

"(1) the Northern Mariana Islands Social Security Retirement Fund will be transferred into the appropriate Federal Social Security Trust Funds;

"(2) prior contributions by or on behalf of persons domiciled in the Northern Mariana Islands to the Trust Territory Social Security Retirement Fund or the Northern Mariana Islands Social Security Retirement Fund will be considered to have been made to the appropriate Federal Social Security Trust Funds for the purpose of determining eligibility of those persons in the Northern Mariana Islands for benefits under those laws; and

"(3) persons domiciled in the Northern Mariana Islands who are eligible for or entitled to social security benefits under the laws of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands will not lose their entitlement and will be eligible for or entitled to benefits under the laws described in Subsection (b).

"SECTION 607. (a) All bonds or other obligations issued by the Government of the Northern Mariana Islands or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any State, territory or possession of the United States, or any political subdivision of any of them.

Bonds and other obligations, exemption.

"(b) During the initial seven year period of financial assistance provided for in Section 702, and during such subsequent periods of financial assistance as may be agreed, the Government of the Northern Mariana Islands will authorize no public indebtedness (other than bonds or other obligations of the Government payable solely from revenues derived from any public improvement or undertaking) in excess of ten percentum of the aggregate assessed valuation of the property within the Northern Mariana Islands.

"ARTICLE VII

"UNITED STATES FINANCIAL ASSISTANCE

"SECTION 701. The Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop the economic resources needed to meet the financial responsibilities of local self-government. To this end, the United States will provide direct multi-year financial support to the Government of the Northern Mariana Islands for local government operations, for capital improvement programs and for economic development. The initial period of such support will be seven years, as provided in Section 702.

Seven year grant assistance, appropriation authorization.

"SECTION 702. Approval of this Covenant by the United States will constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of the following guaranteed annual levels of direct grant assistance to the Government of the Northern Mariana Islands for each of the seven fiscal years following the effective date of this Section:

"(a) \$8.25 million for budgetary support for government operations, of which \$250,000 each year will be reserved for a special education training fund connected with the change in the political status of the Northern Mariana Islands;

"(b) \$4 million for capital improvement projects, of which \$500,000 each year will be reserved for such projects on the Island of Tinian and \$500,000 each year will be reserved for such projects on the Island of Rota; and

"(c) \$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

Federal programs and services, availability.

"SECTION 703. (a) The United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States. Funds provided under Section 702 will be considered to be local revenues of the Government of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

"(b) There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be expended to the benefit of the people thereof as that Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in the Northern Mariana Islands and transported to the United States, its territories or possessions, or consumed in the Northern Mariana Islands, the proceeds of any other taxes which may be levied by the Congress on the inhabitants of the Northern Mariana Islands, and all quarantine, passport, immigration and naturalization fees collected in the Northern Mariana Islands, except that nothing in this Section shall be construed to apply to any tax imposed by Chapters 2 or 21 of Title 26, United States Code.

26 USC 1401, 3101.

"SECTION 704. (a) Funds provided under Section 702 not obligated or expended by the Government of the Northern Mariana Islands

during any fiscal year will remain available for obligation or expenditure by that Government in subsequent fiscal years for the purposes for which the funds were appropriated.

"(b) Approval of this Covenant by the United States will constitute an authorization for the appropriation of a pro-rata share of the funds provided under Section 702 for the period between the effective date of this Section and the beginning of the next succeeding fiscal year.

Pro-rata share,
appropriation
authorization.

"(c) The amounts stated in Section 702 will be adjusted for each fiscal year by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index using the beginning of Fiscal Year 1975 as the base.

"(d) Upon expiration of the seven year period of guaranteed annual direct grant assistance provided by Section 702, the annual level of payments in each category listed in Section 702 will continue until Congress appropriates a different amount or otherwise provides by law.

"ARTICLE VIII

"PROPERTY

"SECTION 801. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to real property in the Northern Mariana Islands on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be transferred to the Government of the Northern Mariana Islands. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to all personal property on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be distributed equitably in a manner to be determined by the Government of the Trust Territory of the Pacific Islands in consultation with those concerned, including the Government of the Northern Mariana Islands.

"SECTION 802. (a) The following property will be made available to the Government of the United States by lease to enable it to carry out its defense responsibilities:

Leased prop-
erty, U.S.
defense pur-
poses.

"(1) on Tinian Island, approximately 17,799 acres (7,203 hectares) and the waters immediately adjacent thereto;

"(2) on Saipan Island, approximately 177 acres (72 hectares) at Tanapag Harbor; and

"(3) on Farallon de Medinilla Island, approximately 206 acres (83 hectares) encompassing the entire island, and the waters immediately adjacent thereto.

"(b) The United States affirms that it has no present need for or present intention to acquire any greater interest in property listed above than that which is granted to it under Subsection 803(a), or to acquire any property in addition to that listed in Subsection (a), above, in order to carry out its defense responsibilities.

"SECTION 803. (a) The Government of the Northern Mariana Islands will lease the property described in Subsection 802(a) to the Government of the United States for a term of fifty years, and the Government of the United States will have the option of renewing this lease for all or part of such property for an additional term of fifty years if it so desires at the end of the first term.

"(b) The Government of the United States will pay to the Government of the Northern Mariana Islands in full settlement of this lease, including the second fifty year term of the lease if extended under the renewal option, the total sum of \$19,520,600, determined as follows:

"(1) for that property on Tinian Island, \$17.5 million;

"(2) for that property at Tanapag Harbor on Saipan Island, \$2 million; and

"(3) for that property known as Farallon de Medinilla, \$20,600.

The sum stated in this Subsection will be adjusted by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index from the date of signing the Covenant.

Technical
Agreement Re-
garding Use of
Land To Be
Leased by the
U.S.

"(c) A separate Technical Agreement Regarding Use of Land To Be Leased by the United States in the Northern Mariana Islands will be executed simultaneously with this Covenant. The terms of the lease to the United States will be in accordance with this Section and with the terms of the Technical Agreement. The Technical Agreement will also contain terms relating to the leaseback of property, to the joint use arrangements for San Jose Harbor and West Field on Tinian Island, and to the principles which will govern the social structure relations between the United States military and the Northern Mariana Islands civil authorities.

"(d) From the property to be leased to it in accordance with this Covenant the Government of the United States will lease back to the Government of the Northern Mariana Islands, in accordance with the Technical Agreement, for the sum of one dollar per acre per year, approximately 6,458 acres (2,614 hectares) on Tinian Island and approximately 44 acres (18 hectares) at Tanapag Harbor on Saipan Island, which will be used for purposes compatible with their intended military use.

"(e) From the property to be leased to it at Tanapag Harbor on Saipan Island the Government of the United States will make available to the Government of the Northern Mariana Islands 133 acres (54 hectares) at no cost. This property will be set aside for public use as an American memorial park to honor the American and Marianas dead in the World War II Marianas Campaign. The \$2 million received from the Government of the United States for the lease of this property will be placed into a trust fund, and used for the development and maintenance of the park in accordance with the Technical Agreement.

"SECTION 804. (a) The Government of the United States will cause all agreements between it and the Government of the Trust Territory of the Pacific Islands which grant to the Government of the United States use or other rights in real property in the Northern Mariana Islands to be terminated upon or before the effective date of the Section. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to any real property with respect to which the Government of the United States enjoys such use or other rights will be transferred to the Government of the Northern Mariana Islands at the time of such termination. From the time such right, title and interest is so transferred the Government of the Northern Mariana Islands will assure the Government of the United States the continued use of the real property then actively used by the Government of the United States for civilian governmental purposes on terms comparable to those enjoyed by the Government of the United

States under its arrangements with the Government of the Trust Territory of the Pacific Islands on the date of the signature of this Covenant.

"(b) All facilities at Isely Field developed with federal aid and all facilities at that field usable for the landing and take-off of aircraft will be available to the United States for use by military and naval aircraft, in common with other aircraft, at all times without charge, except, if the use by military and naval aircraft shall be substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities so used may be charged at a rate established by agreement between the Government of the Northern Mariana Islands and the Government of the United States.

Isely Field facilities, availability to U.S.

"SECTION 805. Except as otherwise provided in this Article, and notwithstanding the other provisions of this Covenant, or those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana Islands, the Government of the Northern Mariana Islands, in view of the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands, and in order to protect them against exploitation and to promote their economic advancement and self-sufficiency:

Landholding restrictions.

"(a) will until twenty-five years after the termination of the Trusteeship Agreement, and may thereafter, regulate the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent; and

"(b) may regulate the extent to which a person may own or hold land which is now public land.

"SECTION 806. (a) The United States will continue to recognize and respect the scarcity and special importance of land in the Northern Mariana Islands. If the United States must acquire any interest in real property not transferred to it under this Covenant, it will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required, of seeking only the minimum interest in real property necessary to support such public purpose, acquiring title only if the public purpose cannot be accomplished if a lesser interest is obtained, and of seeking first to satisfy its requirement by acquiring an interest in public rather than private real property.

"(b) The United States may, upon prior written notice to the Government of the Northern Mariana Islands, acquire for public purposes in accordance with federal laws and procedures any interest in real property in the Northern Mariana Islands by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the parties. The United States will in all cases attempt to acquire any interest in real property for public purposes by voluntary means under this Subsection before exercising the power of eminent domain. No interest in real property will be acquired unless duly authorized by the Congress of the United States and appropriations are available therefor.

"(c) In the event it is not possible for the United States to obtain an interest in real property for public purposes by voluntary means, it may exercise within the Commonwealth the power of eminent domain to the same extent and in the same manner as it has and can exercise the power of eminent domain in a State of the Union. The power of eminent domain will be exercised within the Commonwealth only to the extent necessary and in compliance with applicable United States laws, and with full recognition of the due process required by the United States Constitution.

Power of eminent domain.

USC prec. title 1.

"ARTICLE IX

"NORTHERN MARIANA ISLANDS REPRESENTATIVE AND CONSULTATION

"SECTION 901. The Constitution or laws of the Northern Mariana Islands may provide for the appointment or election of a Resident Representative to the United States, whose term of office will be two years, unless otherwise determined by local law, and who will be entitled to receive official recognition as such Representative by all of the departments and agencies of the Government of the United States upon presentation through the Department of State of a certificate of selection from the Governor. The Representative must be a citizen and resident of the Northern Mariana Islands, at least twenty-five years of age, and, after termination of the Trusteeship Agreement, a citizen of the United States.

Special representatives, report.

"SECTION 902. The Government of the United States and the Government of the Northern Mariana Islands will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than every ten years, the President of the United States and the Governor of the Northern Mariana Islands will designate special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto. Special representatives will be appointed in any event to consider and to make recommendations regarding future multi-year financial assistance to the Northern Mariana Islands pursuant to Section 701, to meet at least one year prior to the expiration of every period of such financial assistance.

"SECTION 903. Nothing herein shall prevent the presentation of cases or controversies arising under this Covenant to courts established by the Constitution or laws of the United States. It is intended that any such cases or controversies will be justiciable in such courts and that the undertakings by the Government of the United States and by the Government of the Northern Mariana Islands provided for in this Covenant will be enforceable in such courts.

"SECTION 904. (a) The Government of the United States will give sympathetic consideration to the views of the Government of the Northern Mariana Islands on international matters directly affecting the Northern Mariana Islands and will provide opportunities for the effective presentation of such views to no less extent than such opportunities are provided to any other territory or possession under comparable circumstances.

Promotion of local tourism.

"(b) The United States will assist and facilitate the establishment by the Northern Mariana Islands of offices in the United States and abroad to promote local tourism and other economic or cultural interests of the Northern Mariana Islands.

"(c) On its request the Northern Mariana Islands may participate in regional and other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for any other territory or possession of the United States under comparable circumstances.

"ARTICLE X

"APPROVAL, EFFECTIVE DATES, AND DEFINITIONS

"SECTION 1001. (a) This Covenant will be submitted to the Mariana Islands District Legislature for its approval. After its approval by the Mariana Islands District Legislature, this Covenant will be submitted to the people of the Northern Mariana Islands for approval in a plebiscite to be called by the United States. Only persons who are domiciled exclusively in the Northern Mariana Islands and who meet such other qualifications, including timely registration, as are promulgated by the United States as administering authority will be eligible to vote in the plebiscite. Approval must be by a majority of at least 55% of the valid votes cast in the plebiscite. The results of the plebiscite will be certified to the President of the United States.

"(b) This Covenant will be approved by the United States in accordance with its constitutional processes and will thereupon become law.

Covenant approval by U.S.

"SECTION 1002. The President of the United States will issue a proclamation announcing the termination of the Trusteeship Agreement, or the date on which the Trusteeship Agreement will terminate, and the establishment of the Commonwealth in accordance with this Covenant. Any determination by the President that the Trusteeship Agreement has been terminated or will be terminated on a day certain will be final and will not be subject to review by any authority, judicial or otherwise, of the Trust Territory of the Pacific Islands, the Northern Mariana Islands or the United States.

Trusteeship Agreement termination; establishment of Commonwealth, proclamation.

"SECTION 1003. The provisions of this Covenant will become effective as follows, unless otherwise specifically provided:

Effective dates.

"(a) Sections 105, 201-203, 503, 504, 606, 801, 903 and Article X will become effective on approval of this Covenant;

"(b) Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601-605, 607, Article VII, Sections 802-805, 901 and 902 will become effective on a date to be determined and proclaimed by the President of the United States which will be not more than 180 days after this Covenant and the Constitution of the Northern Mariana Islands have both been approved; and

"(c) The remainder of this Covenant will become effective upon the termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands.

"SECTION 1004. (a) The application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Mariana Islands may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement.

"(b) The Constitution of the Northern Mariana Islands will become effective in accordance with its terms on the same day that the provisions of this Covenant specified in Subsection 1003(b) become effective, provided that if the President finds and declares that the effectiveness of any provision of the Constitution of the Northern Mariana Islands prior to termination of the Trusteeship Agreement would be inconsistent with the Trusteeship Agreement such provision will be ineffec-

Constitution of the Northern Mariana Islands, effective date.

tive until termination of the Trusteeship Agreement. Upon the establishment of the Commonwealth of the Northern Mariana Islands the Constitution will become effective in its entirety in accordance with its terms as the Constitution of the Commonwealth of the Northern Mariana Islands.

Definitions.

"SECTION 1005. As used in this Covenant:

"(a) 'Trusteeship Agreement' means the Trusteeship Agreement for the former Japanese Mandated Islands concluded between the Security Council of the United Nations and the United States of America, which entered into force on July 18, 1947;

"(b) 'Northern Mariana Islands' means the area now known as the Mariana Islands District of the Trust Territory of the Pacific Islands, which lies within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude and east of 144° east longitude;

"(c) 'Government of the Northern Mariana Islands' includes, as appropriate, the Government of the Mariana Islands District of the Trust Territory of the Pacific Islands at the time this Covenant is signed, its agencies and instrumentalities, and its successors, including the Government of the Commonwealth of the Northern Mariana Islands;

"(d) 'Territory or possession' with respect to the United States includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa;

"(e) 'Domicile' means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

"Signed at Saipan, Mariana Islands on the fifteenth day of February, 1975.

"For the people of the Northern Mariana Islands:

EDWARD DLG. PANGELINAN,
Chairman, Marianas
Political Status Commission.
VICENTE N. SANTOS.
Vice Chairman, Marianas
Political Status Commission.

"For the United States of America:

Ambassador F. HAYDN WILLIAMS,
Personal Representative of the
President of the United States.

"Members of the Marianas Political Status Commission:

JUAN LG. CABRERA.
VICENTE T. CAMACHO.
JOSE R. CRUZ.
BERNARD V. HOFSCHEIDER.
BENJAMIN T. MANGLONA.
DANIEL T. MUNA.
Dr. FRANCISCO T. PALACIOS.
JOAQUIN I. PANGELINAN.
MANUEL A. SABLAN.
JOANNES B. TAIMANAO.
PEDRO A. TENORIO."

SEC. 2. It is the sense of the Congress that pursuant to section 902 of the foregoing Covenant, and in any case within ten years from the date of the enactment of this resolution, the President of the United States should request, on behalf of the United States, the designation of special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto.

Approved March 24, 1976.

Special representatives, appointment by President, report to Congress.
48 USC 1681 note.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-364 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 94-433 (Comm. on Interior and Insular Affairs)
and No. 94-596 (Committees on Foreign Relations
and Armed Services).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 21, considered and passed House.

Vol. 122 (1976): Feb. 24, considered and passed Senate, amended.
Mar. 11, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 13 (1976): Mar. 24, Presidential statement.

Report of the Committee on
Interior and Insular
Affairs, to accompany
H.J. Res. 549, House of
Representatives Report
No. 94-364.

APPROVING THE "COVENANT TO ESTABLISH A COMMONWEALTH OF
THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE
UNITED STATES OF AMERICA," AND FOR OTHER PURPOSES

JULY 16, 1975.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.J. Res. 549]

The committee on Interior and Insular Affairs, to which was referred the joint resolution (H.J. Res. 549) To approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America," and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

PURPOSE

The purpose of H.J. Res. 549, as approved by the Committee on Interior and Insular Affairs by a vote of 30 to 0, is, as expressed in Section I, to approve the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. Second, it is to authorize the appropriation of such additional funds as are needed to pay awards under Title II of the Micronesian Claims Act of 1971, (Public Law 92-39), enacted by the Congress and approved by the President, in accordance with the provisions of such Act, and third, it is to provide an established procedure by which to provide that the various territories of the United States may be included in those federal grant, loan and other assistance programs for which they would be otherwise eligible in accordance with the purposes of the authorizing statutes.

H.J. Res. 549 was introduced by Phillip Burton, (for himself, Mr. Don H. Clausen, Ms. Mink, Mr. Ketchum, Mr. Meeds, Mr. Taylor of North Carolina, Mr. Steiger of Arizona, Mr. Stephens, Mr. Lujan, Mr. Bingham, Mr. Lagomarsino, Mr. Vigorito, Mr. Symms, Ms. Chisholm, Ms. Pettis, Mr. Melcher, Mr. Badillo, Mr. Mikva, Mr. Seiberling,

Mr. Benitez, Ms. Burke of California, Mr. de Lugo, Mr. Won Pat, Mr. Howe and Mr. Miller of California).

An identical bill, H.J. Res. 550 was introduced by Mr. Phillip Burton (for himself, Mr. Santini and Mr. Weaver). A similar bill, H.J. Res. 547, was introduced by Mr. Skubitz, (for himself, Mr. Don H. Clausen, Mr. Steiger of Arizona, and Mr. Ruppe).

BACKGROUND AND NEED

SECTION I

The Trust Territory of the Pacific Islands (TTPI), often referred to as Micronesia, embraces an ocean area larger than the continental United States. It is made up of over 2,100 islands and is populated by approximately 115,000 inhabitants. Micronesia, in fact, describes a geographical location rather than a sociological distinction since the peoples of Micronesia vary greatly in culture, history and language. The political entity of Micronesia was developed during colonial rule and still reflected in the U.N. Trusteeship Agreement. Even today, in spite of 30 years of American administration, social and cultural factionalism within the islands continues as a strong force.

Following World War II, the United States Government developed plans to establish international machinery to replace the dying League of Nations' mandate system. In November 1946, President Truman submitted to the U.N. Security Council a trusteeship agreement which awarded Japan's former mandate in the Pacific to the United States as the Administering Authority. The agreement was approved on April 2, 1947.

The United States on the basis of a joint Congressional resolution then assumed responsibility for the administration of Micronesia under the United Nations' trusteeship agreement. The Security Council approved its designation as a strategic trusteeship in recognition of the islands' military importance during World War II in the Central Pacific. Such designation gave the United States the right to establish and use military facilities in the area for the maintenance of peace and international security. On the other hand, the United States was obligated to foster Micronesian development toward self-government and/or independence in accordance with the freely expressed will of the peoples concerned.

Administratively, the TTPI is subdivided, largely on the basis of cultural and language differences, into six districts; i.e., the Marshall Islands (pop. 25,044); Ponape (pop. 23,251); Truk (pop. 31,600); Yap (pop. 7,869); Palau (pop. 12,674); and the Northern Mariana Islands (pop. 14,335).

In 1969, the first of a series of meetings occurred between the U.S. representatives and the Joint Committee on Future Status (JCFS), Congress of Micronesia, concerning the future political status of Micronesia. Negotiations, however, broke down in May 1970 when the commonwealth proposal offered by the United States was rejected by the Micronesian Delegation. With the appointment in March 1971 of Ambassador Franklin Haydn Williams, the President's Personal Representative for Micronesian Status Negotiations, talks were again re-

sumed. However, in spite of repeated attempts to break the deadlock, little progress was made in the Micronesian-wide negotiations.

For twenty years, the people of the Northern Marianas through their duly elected representatives have on numerous occasions expressed formally and informally to the government of the United States and to the United Nations their strong desire to become a part of the political family of the United States. Because of a common racial, language and cultural tradition (i.e., Chamorro), the Northern Marianas initially sought to achieve unification with Guam. In 1969, however, the Guamanians in referendum rejected the concept of unification, temporarily at least blocking this avenue of political advancement. When it was apparent in April 1972 that the rest of Micronesia was bent on a much looser relationship with the United States (i.e. free association or independence), the Northern Marianas requested separate status negotiations.

Accordingly, the Marianas' Status Talks commenced in December 1972. In June 1973, upon conclusion of the Second Round of Negotiations, both the Marianas and the United States stipulated that all final agreements were dependent upon the approval of the Marianas' District Legislature, a local plebiscite and the United States Congress. Tentative agreement was reached, nevertheless, on the following issues:

- (1) The future political relationship between the Marianas and the United States will take the form of a commonwealth; wherein the future Marianas' Government will exercise maximum internal self-government, including the right of the people to draft and adopt their own constitution and to establish local courts to administer local laws.

- (2) Sovereignty over the Marianas will be vested in the United States, including complete authority in the fields of defense and foreign affairs.

- (3) The future government of the Marianas will preserve control over land ownership.

The Third Session of the 'Marianas' Political Status Negotiations concluded on December 19, 1973 with the following agreements:

- (1) Specified fundamental provisions of the Status Agreement, including certain provisions designed to insure maximum self-government, may not be amended or repealed except by mutual consent. To this extent, the authority of the United States in the Marianas is not plenary.

- (2) Persons born in the Marianas prior to the establishment of the Commonwealth will have the opportunity to choose either U.S. citizenship or U.S. national status. Persons born in the Marianas after the establishment of the Commonwealth would be U.S. citizens.

- (3) The future government of the Marianas' would have power to enact local taxes in addition to those imposed by the U.S. Internal Revenue Code.

- (4) The Marianas would not be included in the customs territory of the United States and authority would be granted to establish a "duty free port."

- (5) As is currently the case in Guam, the United States would return to the Marianas' Government all custom duties, excise taxes

and federal income taxes—estimated to be \$4–5 million per annum—derived from the Marianas.

(6) At an appropriate time after the Status Agreement is signed, a Joint Commission on Federal laws will undertake a detailed study of relevant federal legislation and will make specific recommendations to the United States Congress regarding the future applicability of such legislation in the Marianas.

On May 31, 1974, the Fourth Session of the Marianas' Status Talks concluded. During these discussions, the Delegations affirmed basic decisions reached in earlier sessions with respect to the future political relationships between the Northern Marianas and the United States. Otherwise, the negotiations concerned the U.S. military land requirements in the Marianas, principally on the island of Tinian.

During the Fifth Session of the Marianas Status Negotiations (December 1974–February 1975), Ambassador Williams announced that, in the near term, the major use for Tinian would be limited to ground, sea and air training exercises. The proposed covenant stipulates that the U.S. will acquire at a one-time cost of \$19,520,600 certain lands under a 50-year lease with an automatic renewal option for an additional 50 years without additional cost.

Economically, the U.S. agreed to provide for the next seven years multi-year financial support, at the rate of \$14 million per annum, to the Government of the Northern Mariana Islands. Agreement was also reached on matters concerning the applicability of Federal laws; immigration and naturalization; U.S. citizenship; revenue and taxation; social security; and Federal programs and services.

On February 15, 1975, the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America was signed by the U.S. and Marianas negotiators; shortly thereafter, the Northern Marianas Legislature unanimously endorsed the document. Following a three-month period of political education, the Covenant was presented for approval to the people of the Northern Marianas on June 17, 1975. With 95% of the registered voters participating, 78.8% voted in favor of the Covenant. Mr. Edwin D. Canham, Editor Emeritus of the Christian Science Monitor, and Presidentially appointed Plebiscite Commissioner, certified as to the results of the referendum on June 23, 1975.

Passage by the Congress of House Joint Resolution 549, approving the Northern Mariana Islands Commonwealth Covenant, will set into motion a series of progressive steps which will result in: the administrative separation of the Northern Mariana Islands from the Government of the Trust Territory of the Pacific Islands; the adoption of a locally-drafted and popularly-approved constitution for the Northern Mariana Islands; and finally, following the termination of the Trusteeship Agreement for all of the Trust Territory of the Pacific Islands, the conferral of commonwealth status on the Northern Mariana Islands is a territory of the United States.

SECTION II

The Micronesian Claims Act of 1971, enacted by the Congress and approved by the President (Public Law 92–39), established the Micronesian Claims Commission to administer the provisions of the Act

which provided for, under Title II of the act, post-war damage claims up to July 1, 1951, which could be filed by Micronesians for injuries to their persons and property. The Act authorized the appropriation of specified amounts for this purpose.

On the basis of the claims so far adjudicated by the Micronesian Claims Commission, it is apparent that the amounts authorized by the Act will fall short of making possible full payment of the adjudicated claims. It is the conviction of the Committee that the United States has a moral and legal responsibility to the people of Micronesia as a result of post-war activities by the United States. It is in the fulfillment of these responsibilities that Section 2 is necessary.

SECTION III

At the present time, territories participate in one or more of the various federal assistance programs only on the basis of specific inclusion in the authorizing statutes. Such inclusion is on an individual act-by-act basis as the respective bills are considered in the Committees. Consequently, by oversight, the territories are sometimes not included in such programs for which they would be otherwise eligible.

Because there is no formal comprehensive existing procedure by which it can be insured that the territories of the United States may be included in federal grant, loan and other assistance programs for which they would be otherwise eligible, this Section authorizes the President, subject to Congressional review as provided for by the Section, to extend such programs to the territories when he finds such action to be consistent with the purposes of the authorizing statutes.

SECTION-BY-SECTION ANALYSIS

SECTION I

Article I—Political Relationship

Section 101.—This section specifies that the United States will have sovereignty with respect to the Commonwealth of the Northern Mariana Islands as it does with respect to every state and territory.

The section also provides that the Commonwealth of the Northern Marianas will not come into being until the termination of the Trusteeship Agreement.

Section 102.—This section provides that: the relations between the Northern Marianas and the United States will be governed by the Covenant, and that the Covenant, together with the applicable provisions of the Constitution, treaties and laws of the United States, will be the supreme law of the Northern Mariana Islands.

Section 103.—Section 103 guarantees to the people of the Northern Marianas the right of self-government, and assures that they can govern themselves with respect to their internal affairs in accordance with a constitution of their own adoption.

Section 104.—This section provides that the United States will have complete responsibility for and authority with respect to the foreign affairs and defense of the Northern Marianas.

Section 105.—Section 105 provides that laws which Congress could not also make applicable to a state cannot be made applicable to the

Northern Marianas unless the Northern Marianas is specifically named in the legislation, so as to insure that legislation is not unintentionally applied to the Northern Marianas. Also, specified provisions of the Covenant may be modified only with the consent both of the Government of the Northern Marianas and of the Government of the United States.

Article II—Constitution of the Northern Mariana Islands

Section 201.—This section provides that the people of the Northern Marianas will formulate and approve their own constitution and that they may amend their constitution pursuant to procedures which will be established by that document.

Section 202.—This provision provides for approval of the Commonwealth Constitution by the U.S. Government.

Section 203.—Subsection (a) of Section 203 requires that the local Constitution provide for a republican form of government with separate executive, legislative and judicial branches, and contain a bill of rights.

Subsection (b) of Section 203 provides that the executive power of the Northern Marianas will be vested in a popularly elected governor and in such other officials as the people of the Northern Marianas provide for in the Constitution or laws.

Subsection (c) of this section provides that the Northern Marianas Legislature will be popularly elected, and that its power will extend to "all rightful subjects of legislation". The record of the hearing on H.J. Res. 549 before the Subcommittee established that the chief representatives of the U.S. Government and the Micronesian Political Status Commission, and the Subcommittee Chairman and the Subcommittee agreed that the understanding of and the ability to use the Chamorro language would be a valid factor for the Legislature to establish as a measure of employability in the Marianas Islands, in carrying out the authority provided for by this section.

Subsection (d) provides for local Northern Marianas courts with such jurisdiction as is established by the local constitution or local law.

Section 204.—Section 204 provides that all members of the Legislature of the Northern Marianas and all officers and employees of the local government will take an oath or affirmation to support the Covenant, the applicable provisions of the Constitution and laws of the United States, and the local Constitution and laws.

Article III—Citizenship and Nationality

Section 301.—Section 301 provides that, upon termination of the Trusteeship Agreement, the following persons and their children under 18 years of age who are not already citizens or nationals of the United States and who do not owe allegiance to any foreign country, which is a country other than the United States or the Trust Territory, will become citizens of the United States unless they choose to become U.S. Nationals instead:

- (1) All persons who were born in the Northern Marianas, who are citizens of the Trust Territory of the Pacific Islands and who are domiciled in the Northern Marianas or the United States or any territory or possession of the United States;
- (2) All persons who are citizens of the Trust Territory of the Pacific Islands, who have been domiciled continuously in the

Northern Marianas for at least five years immediately prior to the termination of the Trusteeship and who, unless under age, registered to vote in elections for the Mariana Islands District Legislature or for any municipal election in the Northern Marianas prior to January 1, 1975; and

(3) All persons, who immediately prior to the termination of the Trusteeship, are not citizens of the Trust Territory of the Pacific Islands but have been permanent residents of the Northern Mariana Islands continuously since before January 1, 1974.

Section 302.—This section provides that any person who would become a citizen of the United States solely because of Section 301 of the Covenant may within six months after the termination of the Trusteeship or within six months after reaching the age of 18 years, whichever is later, become a national instead of a citizen of the United States by making a declaration under oath before any federal court or any court of record in the Northern Marianas.

Section 303.—Under this section, persons born in the Northern Mariana Islands after termination of the Trusteeship will be United States citizens at birth.

Section 304.—Section 304 provides that citizens of the Northern Marianas will be entitled to all privileges and immunities of citizens in the several states of the United States.

Article IV—Judicial Authority

Section 401.—Section 401 requires the United States to establish for and within the Northern Mariana Islands a federal court of record to be known as the "District Court for the Northern Mariana Islands".

Section 402.—Section 402 deals with the jurisdiction of the federal court which will be established in the Northern Marianas.

Subsection (a) provides that the District Court for the Northern Marianas will have the same jurisdiction as a district court of the United States in a state of the union, except that, in cases raising question of federal law, it will have jurisdiction regardless of the amount in dispute.

Subsection (b) provides that the District Court for the Northern Marianas will have jurisdiction over local cases unless the Constitution or laws of the Northern Marianas vest such jurisdiction in a court established by the local government.

Subsection (b) provides also that, when it hears a local case, the federal court determines the requirements of indictment by grand jury and trial by jury in both civil and criminal cases as would a court of the Northern Marianas.

Subsection (c) provides that the Federal District Court in the Northern Marianas will have such appellate jurisdiction as the Constitution or laws of the Northern Marianas may provide, and that when the District Court sits as an appellate court, it will consist of three judges, at least one of whom must be a judge of a court of record of the Northern Mariana Islands.

Section 403.—This section deals with technical matters relating to United States judicial authority within the Northern Mariana Islands.

Subsection (a) assures that the relations between federal courts and the courts of the Northern Mariana Islands will be essentially the

same as the relationship between the federal courts and the courts of the states.

Subsection (b) provides that those portions of Title 28 of the United States Code which apply to Guam or to the District Court of Guam will be applicable to the Northern Marianas or the District Court for the Northern Marianas except as otherwise provided in Article IV. This section assures that the rules of procedure and other relevant federal laws are applicable.

Article V—Applicability of laws

Section 501.—This section deals with the application of the United States Constitution to the Northern Mariana Islands, and makes applicable to the Northern Marianas, as if it were a state, certain of the Constitutional provisions governing the relationship between the Federal Government and the states.

Subsection (a) provides that the specific provisions of the United States Constitution will be applicable to the Northern Marianas as if the Northern Marianas were a state.

It also provides that other provisions of or amendments to the Constitution of the United States which do not apply of their own force within the Northern Mariana Islands will be applicable only with the approval of the local government and of the Government of the United States.

Subsection (b) is intended to make clear that the applicability of certain provisions of the U.S. Constitution to the Northern Marianas will not prohibit the local government from imposing land alienation restrictions under Section 805, or from providing for a bicameral legislature as specified under Section 203, or from controlling jury and grand jury procedures in local cases in the Northern Marianas under Section 501.

Section 502.—Subsection (a) of this section contains a formula for determining the initial manner in which federal laws other than the United States Constitution will apply to the Northern Marianas.

Subsection 502(a) (1) assures that : laws which provide federal services and financial assistance programs for the States and territories will apply to the Northern Marianas as they apply to Guam ; Section 228 of Title II and Title XVI of the United States Social Security Act will apply in the Northern Marianas as they apply in the States ; the federal banking laws will apply as they apply in Guam ; the Public Health Service Act will apply as it does in the Virgin Islands ; the Micronesian Claims Act will continue to apply to the Northern Marianas as it applies to the Trust Territory of the Pacific Islands.

Subsection (a) (2) is the general formula for the application of federal laws. It contains a two-part test : applicability to Guam and applicability generally to the states.

Subsection (a) (3) provides that those federal laws which are not dealt with by subparagraphs (1) and (2) and which are applicable to the Trust Territory will continue to be applicable to the Northern Marianas.

Subsection 502(b) provides that the laws of the United States regarding coastal shipments and the conditions of employment, including the wages and hours of employees, will be applicable to the activities

of the United States Government and its contractors in the Northern Mariana Islands.

Section 503.—This section deals with certain laws of the United States, not presently applicable to the Northern Marianas and provides that these laws will not apply to the Northern Marianas prior to termination of the Trusteeship. They will not apply after termination until the Congress of the United States specifically acts to make them applicable.

Subsection 503(a) provides that until Congress acts to make the immigration and naturalization laws applicable, the Northern Marianas will have local control over immigration.

Subsection 503(b) provides that the coastwise shipping laws of the United States and the laws of the United States which prohibit foreign vessels from landing fish or unfinished fish products in the United States will not apply except in the manner and to the extent Congress should determine, except to the extent provided in Section 502(b) relative to the United States Government and its contractors.

Subsection (c) provides that the federal minimum wage provisions will not presently extend to the Northern Mariana Islands to the extent they apply to private employers and employees.

Section 504.—Section 504 provides that the President of the United States will appoint a Commission on Federal Laws to survey the laws of the United States and make recommendations to the United States Congress as to which laws should be made applicable to the Northern Marianas and to what extent and in what manner.

Section 505.—This section provides that the laws of the Trust Territory and of the Mariana Islands District and its local municipalities, and all other executive and district orders of a local nature applicable to the Northern Marianas upon the establishment of the new Government of the Northern Marianas under its own Constitution will continue in force unless altered by the Government of the Northern Marianas, to the extent such laws are not inconsistent with the Covenant or with the applicable provisions of the Constitution, treaties and laws of the United States.

Section 506.—Section 506 provides for limited application of the Immigration and Nationality Act of the United States to the Northern Marianas.

Subsection (a) provides that the Immigration and Nationality Act applies in the Northern Marianas only for the purposes specified in the remaining subsections.

Subsection (b) assures that if citizens or non-citizen nationals of the United States who permanently reside in the Northern Marianas have a child outside of the United States or the Northern Marianas, the child will not be considered an alien.

Subsection (c) deals with the problem of immediate relatives of citizens of the United States permanently residing in the Northern Marianas. "Immediate relatives" are defined by the Immigration and Nationality Act to be spouses, parents and children. It also provides a method by which the Government of the Northern Marianas may certify that certain persons meet the immediate relative qualification and are lawfully admitted to the Northern Marianas at the time the Trusteeship is terminated.

Subsection (c) also provides that the courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be able to naturalize persons who are eligible to be naturalized in accordance with the limited applicability of the Immigration and Nationality Act provided for in this Subsection and who reside within their respective jurisdictions.

Subsection (d) makes applicable to the Northern Marianas certain portions of the Immigration and Nationality Act which deal with the loss of citizenship or the loss of non-citizenship nationality.

Article VI—Revenue and Taxation

Section 601.—This section deals with the application of the federal income tax laws.

Subsection (a) provides that the federal income tax laws of the United States will come into force in the Northern Marianas as a local territorial income tax on the first day of January following the establishment of the new Government of the Northern Marianas.

Under Subsection (a), revenue laws will operate in the Northern Mariana Islands as the United States federal income tax laws operate in Guam.

Subsection (b) provides that persons who are residents of the Northern Marianas will file only one income tax return, depending on the taxpayer's residence at the end of the taxable year.

Subsection (c) provides that references in the Internal Revenue Code to Guam will be deemed to also refer to the Northern Marianas, where not otherwise distinctly expressed or manifestly incompatible with the intent of such sections or of the Covenant.

Section 602.—This section specifically recognizes the authority of the Government of the Northern Marianas to impose local taxes in addition to those imposed by the Federal income tax laws under Section 601.

The record of the hearing on H.J. Res. 549 before the Subcommittee established the intent that this section authorizes, among other actions, the providing of rebates on taxes collected and the enactment of surtaxes on income by the Government of the Northern Marianas, and that the assistance of the Internal Revenue Service will be available for such activities to the extent feasible.

Section 603.—This section deals with customs and other matters relating to trade with respect to the Northern Marianas.

Subsection (a) of this section provides that the Northern Marianas will not be included within the customs territory of the United States.

Subsection (b) allows the local government to levy duties on goods imported into the Northern Marianas from areas outside the customs territory of the United States in a manner which is consistent with the international obligations of the United States.

Subsection (c) assures that imports from the Northern Marianas into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States.

Subsection (d) provides that the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Marianas and will encourage other countries to consider the Northern Marianas a developing territory for this purpose.

Section 604.—Section 604 deals with excise taxes. Subsection (a) permits the United States to levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Marianas in the same manner and to the same extent as such taxes are applicable within Guam.

Subsection (b) provides that the Northern Marianas can impose excise taxes on goods manufactured, sold or used or services rendered within its territory or on goods imported into the Northern Marianas, provided that excise taxes on goods imported into the Northern Marianas will be consistent with the international obligations of the United States.

Section 605.—This section provides that the Government of the Northern Marianas cannot impose customs duties on the property of the United States, and that it cannot impose any taxes on the property or activities of the United States except to the extent that a state could impose such taxes on such activities and property. This section also provides that the Soldiers and Sailors Civil Relief Act, as amended, will apply to the Northern Marianas as it applies to Guam.

Section 606.—Section 606 deals with the application of the United States Social Security System to the Northern Marianas.

Subsection (a) provides that not later than the time the Covenant is approved, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Marianas will be transferred to the United States and held in trust in a separate fund to be known as the "Northern Marianas Social Security Retirement Fund." The United States will administer the Marianas Social Security System through the United States Social Security Administration in accordance with the laws of the Trust Territory in effect at the time of such transfer.

Subsection (b) assures that the laws of the United States which impose taxes to support or which provide benefits from the United States Social Security System will become applicable to the Northern Marianas as they are applicable to Guam upon termination of the Trusteeship Agreement or at such earlier time as may be agreed to by the Government of the Northern Marianas and the Government of the United States.

Subsection (c) provides that at the time the United States Social Security System becomes applicable in the Northern Marianas, the Northern Mariana Islands Social Security Retirement Fund will be transferred into the appropriate trust fund of the United States Social Security System.

Under Subsection (c) (2), contributions to the Trust Territory Social Security Retirement Fund or to the Northern Mariana Islands Social Security Retirement Fund will be considered to have been made to the appropriate United States Social Security Trust Fund for the purposes of determining eligibility of persons in the Northern Marianas for benefits from the federal trust funds.

Subsection (c) (3) assures that persons who are eligible for or entitled to social security benefits under the laws of the Trust Territory or of the Northern Marianas at the time that the federal social security laws become applicable, will not lose their entitlements.

Section 607.—Under Subsection (a), all bonds or other obligations issued by the local government or by its authority will be exempt, as

to principal and interest, from taxation by the United States, or by any state or territory of the United States, or by any political subdivision of any of them.

Subsection (b) provides that during the initial seven-year period of financial assistance under Section 702 of the Covenant, the Government of the Northern Marianas will authorize no public debt (other than bonds or other obligations of the government payable solely from revenues derived from a particular public improvement or undertaking) in excess of ten percent of the aggregate assessed valuation of the property within the Northern Marianas.

Article VII—United States Financial Assistance

Section 701.—The Government of the United States will assist the Government of the Northern Marianas in its efforts to achieve a progressively higher standard of living for the people of the Northern Marianas as a part of the American economic community, and to develop the economic resources needed to meet the financial responsibilities of local self-government.

Section 702.—Section 702 provides that the approval of the Covenant will constitute on the part of the United States, a commitment and pledge of its full faith and credit for the payment of the guaranteed annual levels of direct grant assistance to the Government of the Northern Marianas provided for in this section for each of the seven fiscal years following the establishment of the new local government. In addition, the approval of the Covenant will constitute an authorization for the appropriation of such funds.

For each of the seven years covered by Section 702, the following amounts will be provided:

(1) \$8.25 million for budgetary support for government operations. Of this amount each year \$250,000 will be reserved for a special education training fund connected with the change in the political status of the Northern Mariana Islands.

(2) \$4 million for capital improvement subjects. Of this amount, \$500,000 each year will be reserved for such projects on Tinian and \$500,000 each year will be reserved for such projects on Rota.

(3) \$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

Section 703.—Subsection (a) provides that the United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States.

Subsection (a) provides that the funds that the Northern Marianas receives under Section 702 will be considered to be the local revenues of the Northern Marianas Government when used as the local share required to obtain federal programs and services.

Subsection (b) provides that the federal government will pay to the Government of the Northern Marianas, to be expended for the benefit of the people of the Northern Marianas as the local government determines, the proceeds of essentially all taxes and duties and

fees collected with respect to the Northern Marianas, other than those which relate to social security benefits.

Section 704.—Section 704 deals with a variety of important but largely technical matters relating to financial assistance.

Subsection (a) provides that funds which are received by the Government of the Northern Marianas under Section 702 during any fiscal year will remain available for obligation or expenditure by the local government in subsequent fiscal years for the broad purposes for which the funds were appropriated.

Subsection (b) provides that approval of the Covenant by the United States will constitute an authorization for the appropriation of a prorata share of the funds provided by Section 702 for that period of time between the establishment of the new Government of the Northern Marianas and the beginning of the next succeeding fiscal year.

Subsection (c) provides that the amounts stated in Section 702 will be adjusted for each year for changes in the value of the dollar based on the percentage change in the U.S. Gross National Product Implicit Price Deflator since the beginning of fiscal year 1975. By this language, it is intended that July 1, 1974, will be the beginning date on which the adjustment is based.

Subsection (d) provides that after the expiration of the seven-year period of annual direct grant assistance provided by Section 702, the annual level of payment in each category listed in Section 702 will continue until Congress appropriates a different amount or otherwise provides by law.

Article VIII—Property

Section 801.—Section 801 provides that all right, title and interest of the Government of the Trust Territory of the Pacific Islands to real property in the Northern Marianas will be transferred to the Government of the Northern Marianas. The transfer will take place no later than the time of the termination of the Trusteeship.

This section also provides that all right, title and interest of the Government of the Trust Territory in personal property on the date the Covenant was signed or thereafter acquired by it, will, no later than the termination of the Trusteeship, be distributed equitably in a manner to be determined by the Trust Territory Government after consultation with those concerned, including the Government of the Northern Marianas.

Section 802.—This section provides that the following property will be made available to the United States, to enable it to carry out its defense responsibilities, by lease by the local Northern Mariana Islands Government:

(1) On Tinian, approximately 17,799 acres and the waters immediately adjacent thereto.

(2) On Saipan, approximately 177 acres at Tanapag Harbor.

(3) Farallon de Medinilla Island, approximately 206 acres encompassing the entire island and the waters immediately adjacent thereto.

Subsection (b) is an affirmation by the United States that it has no present need for or present intention to acquire any greater interest in the property being leased to it on Tinian, at Tanapag and on Farallon

de Medinilla than the lease interest which is granted to it under Section 803(a).

Section 803.—Subsection (a) provides that the Government of the Northern Marianas will lease the property described in Section 802(a) to the Government of the United States for a term of fifty years, and that the Government of the United States will have the option of renewing this lease for all or part of such property for an additional term of fifty years, at no additional cost, if it so desires at the end of the first term.

Subsection (b) provides that the United States will pay to the Government of the Northern Marianas in full settlement of the lease, including the second fifty-year period of the lease if extended under the renewal option, the total sum of \$19,520,600. The total sum which will be paid by the United States for the leasehold will be adjusted by a percentage which is the same as the percentage change in the U.S. Gross National Product Implicit Price Deflator from the date the Covenant was signed until the sum is paid.

Subsection (c) states that a separate Technical Agreement Regarding Use of Land to be Leased to the United States in the Northern Mariana Islands will be executed simultaneously with the Covenant, and that the terms of the lease to the United States will be in accordance with the Technical Agreement as well as with the Covenant.

Subsection (d) provides that from the property to be leased to it under the Covenant, the United States will lease back, in accordance with the Technical Agreement, for the sum of \$1 per acre per year, approximately 6,458 acres on Tinian and approximately 44 acres at Tanapag Harbor. This land may be used only for purposes compatible with the intended military use.

Subsection (e) provides that the Government of the United States will make available to the Government of the Northern Marianas, 133 acres at no cost at Tanapag Harbor. This property will be set aside as a public park to serve as a memorial to the American and Marianas dead in World War II. Two million dollars of the total funds paid by the United States for the lease will be placed in a trust fund by the Government of the Northern Marianas or by the legal entity, and the income from the fund will be used to develop and maintain the park.

Section 804.—Subsection (a) provides for the cancellation, no later than the establishment of the new local government, of military retention land and other land use agreements by which the Government of the United States benefits in the Northern Marianas, and provides for the future use of such of this land as is needed by the Federal Government for civilian purposes on terms comparable to those now in effect.

Subsection (b) provides that the facilities at Isley Field developed with federal aid and all facilities there usable for the landing and take-off of aircraft will be available to the United States for use by military aircraft in common with other aircraft at all times without charge. If use by the military is substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities may be charged to the military.

Section 805.—This section expressly recognizes the importance of the ownership of land for the culture and traditions of the people of

the Northern Mariana Islands and the desirability of protecting their land against exploitation. Under this section, the Government of the Northern Mariana Islands must, for 25 years following termination of the Trusteeship, regulate the alienation of permanent and long-term interests in property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent, including both those of Chamorro and Carolinian ancestry. After the expiration of this 25-year period, the Government of the Northern Mariana Islands may regulate the alienation of property as described. The Government of the Northern Marianas is specifically authorized to regulate the extent to which any one person may hold or own land which is now public land. Nothing elsewhere in the Covenant (except certain provisions of Article VIII itself) or in the applicable portions of the U.S. Constitution or laws may interfere with these provisions.

Section 806.—This section deals with the authority of the United States to acquire land in the future which it may need for governmental purposes.

Section 806(a) provides that the United States will continue to recognize and respect the scarcity and special importance of land in the Northern Marianas. If the United States must acquire any interest in real property which it does not obtain under the Covenant, the United States will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required; of seeking only the minimum interest in real property necessary to support that public purpose, of acquiring title only if the public enterprise cannot be accomplished with a lesser interest; and of seeking first to satisfy its requirement by acquiring an interest in public rather than private land.

Subsection (b) provides that the United States may, after written notice to the Government of the Northern Marianas, acquire for public purposes in accordance with federal laws and procedures any interest in real property in the Northern Marianas by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the United States and the owner of the property. The United States is required by this section in all cases to attempt to acquire an interest in real property for public purposes by voluntary means before exercising the power of eminent domain.

Subsection (c) provides that in the event it is not possible for the United States to obtain an interest in real property for public purpose by voluntary means, the United States will have and may exercise within the Northern Marianas the power of eminent domain to the same extent and in the same manner it has and can exercise the power in a state. The power of eminent domain will be exercised only to the extent necessary and in compliance with applicable federal law, and with full recognition of the due process required by the United States Constitution.

Article IX—Northern Mariana Islands Representative and Consultation

Section 901.—This section provides that the Constitution or laws of the Northern Marianas may provide for the appointment or election of a Resident Representative to the United States, who will be entitled

to receive official recognition as such Representative by all of the departments and agencies of the United States Government.

The term of office of the Resident Representative will be two years, unless otherwise determined by local law. The Representative must be a citizen and a resident of the Northern Mariana Islands, must be at least 25 years of age, and, after termination of the Trusteeship Agreement, must be a citizen of the United States. The manner in which the Representative will be selected is left to the local government.

Section 902.—Section 902 provides that the Government of the United States and the Government of the Northern Marianas will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than once every ten years, the President of the United States and the Governor of the Northern Marianas will designate special representatives to meet and to consider in good faith such issues affecting the relationship as may be designated by either Government.

Section 903.—This section provides that nothing in the Covenant shall prevent the presentation of cases arising under the Covenant to the federal courts. Section 903 expresses the intent of the United States and the Northern Marianas that such cases be heard in those courts, and that the undertakings or promises by the Government of the United States and by the Government of the Northern Marianas provided for in the Covenant will be enforceable.

Section 904.—Section 904 deals with three aspects of international relations which are of particular concern to the Northern Marianas.

Subsection (a) provides that the United States Government will give sympathetic consideration to the advice of the Government of the Northern Marianas on international matters directly affecting the Northern Marianas. It also assures the Government of the Northern Marianas that it will be provided with opportunities for the effective presentation of its views on such matters to no less an extent than such opportunities are provided to any other territory or possession under comparable circumstances.

Subsection (b) provides that the United States will assist and facilitate the establishment by the Northern Marianas of offices in the United States and in foreign countries to promote local tourist and other economic and cultural interests of the Northern Marianas.

Subsection (c) provides that the Northern Marianas may, upon its request, participate in regional or other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized other United States territories or possessions under comparable circumstances.

Article X—Approval, Effective Dates, and Definitions

Section 1001.—This section deals with the method by which the Covenant will be approved.

Subsection (a) provides for approval on behalf of the Northern Marianas. As requested by this subsection, the Covenant has been submitted to the Mariana Islands District Legislature, which has approved it for submission to the people of the Northern Marianas in a plebiscite. The next step was the plebiscite. Only persons who were domiciled exclusively in the Northern Marianas and who met other requirements promulgated by the United States as administering authority were eligible to vote in the plebiscite. (The Covenant was ap-

proved unanimously by the Mariana Islands District Legislature, and with 95% of the registered voters participating, 78.8% voted in favor of the Covenant.)

Subsection (b) provides that the Covenant will be approved by the United States in accordance with its constitutional processes. This process will include approval by the Congress, and signature of the approved document by the President. The Covenant will thereupon become part of the law of the United States.

Section 1002.—This section provides that the President of the United States will issue a proclamation announcing the termination of the Trusteeship Agreement and the establishment of the Commonwealth. Any such determination by the President that the Trusteeship has been or will be terminated will not be reviewable by any authority, judicial or otherwise, of the Trust Territory, of the Northern Marianas, or of the United States. The United States hopes to be able to terminate the Trusteeship by 1981.

Section 1003.—Section 1003 deals with the effective dates of various provisions of the Covenant.

Subsection (a) provides that the following provisions of the Covenant will be effective immediately upon approval by both sides:

- (1) the requirements for mutual consent;
- (2) drafting and approving the Constitution of the Northern Marianas;
- (3) the inapplicability of certain federal laws;
- (4) the establishment of the Commission on Federal Laws;
- (5) the trust arrangements relating to the Northern Mariana Islands Social Security System;
- (6) the requirement that land held by the Trust Territory Government will be transferred to the Northern Marianas Government;
- (7) the enforceability of undertakings by both the United States and the local government; and
- (8) the provisions for establishing the effective dates of the provisions of the Covenant will become effective upon approval of the Covenant.

Under Subsection (b), all the remaining important portions of the Covenant, other than those which relate to United States sovereignty and United States citizenship and nationality, will become effective on a date which will be within six months after both the Covenant and the Constitution of the Northern Marianas have been approved by both the United States and the Northern Mariana Islands. These include provisions relating to:

- (1) the relations between the United States and the Northern Mariana Islands
- (2) extension of federal laws
- (3) establishing the federal court
- (4) the specific application of provisions of the United States Constitution
- (5) revenue and taxation provisions
- (6) all of Article VII dealing with financial assistance
- (7) most of Article VIII dealing with land and
- (8) the provisions in Article IX guaranteeing to the Northern Marianas a Resident Representative in Washington and the right of periodic consultation,

Subsection (c) provides that the remaining provisions of the Covenant will become effective upon termination of the Trusteeship Agreement. These are:

(1) Section 101, which creates the Commonwealth in political union with and under the sovereignty of the United States

(2) Section 104, which grants the United States authority with respect to foreign affairs and defense (the United States will continue to have this authority under the Trusteeship Agreement until its termination)

(3) Sections 301-03, which deal with United States citizenship and nationality

(4) Section 506, which is designed to handle certain problems which may arise because the immigration and naturalization laws of the United States will not be applicable to the Northern Marianas

(5) Section 806, which deals with the authority of the United States to acquire property in the Northern Marianas and

(6) Section 904, which deals with Marianas participation in certain international affairs

Section 1004.—This section deals with certain matters prior to the termination of the Trusteeship and the establishment of the Commonwealth.

Subsection (a) provides that the application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Marianas may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement.

Subsection (b) provides that the Constitution of the Northern Marianas will come into effect on a day chosen by the President of the United States which is within 180 days after both the Covenant and the local Constitution have been approved by both sides. Subsection (b) also gives the President of the United States the authority to delay the effectiveness of any provision of the local Constitution prior to the termination of the Trusteeship if he finds that implementation of such provision would be inconsistent with the Trusteeship Agreement.

Section 1005.—This section defines certain important terms used in the Covenant.

Subsection (a) defines "Trusteeship Agreement".

Subsection (b) defines the "Northern Mariana Islands" in geographic terms.

Subsection (c) defines the term "Government of the Northern Mariana Islands" to include, as appropriate in the context, the Government of the Mariana Islands District at the time the Covenant is signed and its successors, including the Government of the Commonwealth of the Northern Mariana Islands.

Subsection (d) defines the term "Territory or possession" with respect to the United States to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

Subsection (e) defines the term "Domicile" to mean that place where a person maintains a residence with the intention of continuing such

residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period. This is the standard legal definition of "domicile".

SECTION 2

This section authorizes the appropriation of such sums as may be necessary to make full payment of Title II awards by the Micronesian Claims Commission under the provisions of the Micronesian Claims Act of 1971.

SECTION 3

This section authorizes the President to extend to the territories federal programs providing grant, loan and loan guarantee programs or other assistance to the States, unless such extension is inconsistent with the purposes of the Act under which such assistance is provided, or unless such extension is disapproved by either House of Congress in the manner provided for by Section 3.

COST AND BUDGET ACT COMPLIANCE

Section 1 of this legislation authorizes an annual appropriation of \$14,000,000 per year for seven years, and a one-time appropriation of \$19,520,600 in payment of a land lease.

Section 2 authorizes such additional sums as may be necessary to make full payment of Title II awards by the Micronesian Claims Commission under the provisions of the Micronesian Claims Act of 1971.

Section 3 makes no authorization of appropriations. It authorizes the possible extension of certain Federal programs to the territories. Any resulting increase in authorizations would be provided for in the regular authorization legislation for each of the programs.

OVERSIGHT STATEMENT

Pursuant to Rule X, clause 2(b) (1), the Subcommittee on Territorial and Insular Affairs continues to exercise oversight responsibilities in connection with territorial legislation. No recommendations were submitted to the Committee pursuant to Rule X, clause 2(b) (2).

COMMITTEE RECOMMENDATION

The bill, H.J. Res. 549, having been passed out of the Subcommittee on Territorial and Insular Affairs without a dissenting vote, was approved by the Committee on Interior and Insular Affairs, in open mark-up session on July 15, 1975, by a vote of 30 to 0.

EXECUTIVE COMMUNICATIONS

The Executive Communication from the President, #1293 dated July 1, 1975 and a communication from the Department of the Interior dated July 11, 1975, relevant to H.J. Res. 549, as ordered reported, are set forth below:

THE WHITE HOUSE,
Washington, July 1, 1975.

THE SPEAKER,
The House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I am transmitting herewith a proposed Joint Resolution which would provide Congressional approval of the "Covenant to Establish A Commonwealth of the Northern Mariana Islands in Political Union with the United States of America."

On June 17, 1975, the people of the Northern Mariana Islands of the Trust Territory of the Pacific Islands overwhelmingly approved the Covenant in a United Nations-observed plebiscite. This historic act of self-determination was the capstone of more than twenty years of continuous effort on the part of the people of the Marianas District to enter into close union with the United States. This action has now cleared the way for the submission of the Covenant to the Congress of the United States for its formal consideration.

The passage by the Congress of the Joint Resolution approving the Northern Mariana Islands Commonwealth Covenant will set into motion a series of progressive steps which will result in: the administrative separation of the Northern Mariana Islands from the Government of the Trust Territory of the Pacific Islands; the adoption of a locally-drafted and popularly-approved Constitution for the Northern Mariana Islands; and finally, following the termination of the Trusteeship Agreement for all of the Trust Territory of the Pacific Islands, the conferral of Commonwealth status on the Northern Mariana Islands as a territory of the United States as provided for by the Covenant.

The Covenant Agreement I am presenting to the Congress today was signed on February 15, 1975, by the Marianas Political Status Commission for the Northern Mariana Islands and by Ambassador F. Haydn Williams for the United States. It is the result of more than two years of negotiations between the United States and a broadly representative delegation from the Northern Mariana Islands. Prior to and during the talks, the people of the Northern Mariana Islands actively participated in open discussions of the various aspects of the proposed relationship. Likewise, the Executive Branch consulted frequently with members of the U.S. Congress regarding the progress of the negotiations and actively sought the advice and guidance of the Congress, much of which is reflected in the final provisions of the Covenant.

Following the signing, the Covenant was submitted to the Marianas District Legislature for its review and approval. On February 20, 1975, the elected representatives of the people of the Northern Mariana Islands through the District Legislature unanimously approved the Covenant and requested the United States to arrange for an early Plebiscite. The Plebiscite was carried out in accordance with an Order

issued by the Secretary of the Interior on April 10, 1975. It was conducted under the supervision of my personal representative, Mr. Erwin D. Canham, whom I appointed to serve as Plebiscite Commissioner. On June 22, 1975, Commissioner Canham certified that 78.8 percent of the people in the Marianas who voted had approved the Covenant.

The next step in the approval process is action by the U.S. Congress. The enclosed Joint Resolution, when approved, will provide the authority to begin the gradual and progressive implementation of the terms of the Covenant. This process hopefully will have been completed by 1981 when we expect the Trusteeship over all of the Trust Territory of the Pacific Islands will have been terminated following a similar act of self-determination by the other districts of the TTPI.

All of the provisions of the Covenant are the product of detailed negotiations extending over a two year period. I want to call your attention particularly to the financial assistance provisions in light of the new procedures established by the Congressional Budget Act.

Article VII of the resolution specifically constitutes a commitment and pledge of the full faith and credit of the United States for the payment, as well as for the appropriation, of guaranteed levels of direct grant assistance totalling \$14,000,000 per year, in 1975 constant dollars, to the Government of the Northern Mariana Islands for each of the first seven full fiscal years after approval by the Federal Government of the locally adopted Constitution. The same amount would be paid in future years unless changed by the Congress. A pro rata share of the \$14,000,000 is authorized to be appropriated for the first partial fiscal year after the Constitution has been approved.

Article VIII of the resolution authorizes the appropriation of \$19,520,600 to be paid to the Government of the Northern Mariana Islands for the 50 year lease, with the option of renewing the lease for another 50 years at no cost, of approximately 18,182 acres of lands and waters immediately adjacent thereto.

In addition to these specific authorizations for appropriations, Article VII authorizes the Government of the Northern Mariana Islands to receive the full range of Federal programs and services available to the territories of the United States, as well as the proceeds of numerous Federal taxes, duties and fees—the same treatment as is presently afforded to the Territory of Guam.

I urge the Senate and the House to take early, positive action to approve the Northern Mariana Islands Commonwealth Covenant which will thereupon become law in accordance with its provisions. Favorable consideration by the Congress will represent one more important step in the fulfillment of the obligations which the United States undertook when the Congress approved by joint resolution the Trusteeship Agreement on July 18, 1947. Congressional approval of the freely expressed wish of the people of the Northern Mariana Islands will enable them to move toward their long sought goal of self-government in political union with the United States. The final realization of this desired goal will be an historic event for the people of the Northern Mariana Islands and for the United States—an event to which I look forward with great pleasure.

Sincerely,

GERALD R. FORD.

JOINT RESOLUTION APPROVING THE "COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA"

Whereas, the United States is the Administering Authority of the Trust Territory of the Pacific Islands under the terms of the Trusteeship Agreement for the former Japanese mandated islands between the Security Council of the United Nations and the United States which was approved by the Security Council on April 2, 1947, and approved by the United States on July 18, 1947; and

Whereas, the United States, in accordance with the Trusteeship Agreement and the Charter of the United Nations, has assumed the obligation to promote the development of the peoples of the Trust Territory toward self-government or independence as may be appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned; and

Whereas the United States, in response to the desires of the people of the Northern Mariana Islands clearly expressed over the past twenty years through public petition and referendum, and in response to its own obligations under the Trusteeship Agreement to promote self-determination, entered into political status negotiations with representatives of the people of the Northern Mariana Islands; and

Whereas, on February 15, 1975, a "Covenant to Establish A Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" was signed by the Marianas Political Status Commission for the people of the Northern Mariana Islands and by the President's Personal Representative, Ambassador F. Haydn Williams, for the United States of America, following which the Covenant was approved by the Mariana Islands District Legislature on February 20, 1975, and by the people of the Northern Mariana Islands in a plebiscite held on June 17, 1975: Now be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Covenant to Establish A Commonwealth of the Northern Mariana Islands in Political Union with the United States of America is approved as follows:

(3)

COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA

Whereas, the Charter of the United Nations and the Trusteeship Agreement between the Security Council of the United Nations and the United States of America guarantee to the people of the Northern Mariana Islands the right freely to express their wishes for self-government or independence; and

Whereas, the United States supports the desire of the people of the Northern Mariana Islands to exercise their inalienable right of self-determination; and

Whereas, the people of the Northern Mariana Islands and the people of the United States share the goals and values found in the American system of government based upon the principles of government by the consent of the governed, individual freedom and democracy; and

Whereas, for over twenty years, the people of the Northern Mariana Islands, through public petition and referendum, have clearly expressed their desire for political union with the United States;

Now, therefore, the Marianas Political Status Commission, being the duly appointed representative of the people of the Northern Mariana Islands, and the Personal Representative of the President of the United States have entered into this Covenant in order to establish a self-governing commonwealth for the Northern Mariana Islands within the American political system and to define the future relationship between the Northern Mariana Islands and the United States. This Covenant will be mutually binding when it is approved by the United States, by the Mariana Islands District Legislature and by the people of the Northern Mariana Islands in a plebiscite, constituting on their part a sovereign act of self-determination.

ARTICLE I.—POLITICAL RELATIONSHIP

SECTION 101

The Northern Mariana Islands upon termination of the Trusteeship Agreement will become a self-governing commonwealth to be known as the "Commonwealth of the Northern Mariana Islands", in political union with and under the sovereignty of the United States of America.

SECTION 102

The relations between the Northern Mariana Islands and the United States will be governed by this Covenant which, together with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, will be the supreme law of the Northern Mariana Islands.

SECTION 103

The people of the Northern Mariana Islands will have the right of local self-government and will govern themselves with respect to internal affairs in accordance with a Constitution of their own adoption.

SECTION 104.

The United States will have complete responsibility for and authority with respect to matters relating to foreign affairs and defense affecting the Northern Mariana Islands.

SECTION 105

The United States may enact legislation in accordance with its constitutional processes which will be applicable to the Northern Mariana Islands, but if such legislation cannot also be made applicable to the several States the Northern Mariana Islands must be specifically named therein for it to become effective in the Northern Mariana Islands. In order to respect the right of self-government guaranteed by this Covenant the United States agrees to limit the exercise of that authority so that the fundamental provisions of this Covenant, namely Articles I, II and III and Sections 501 and 805, may be modified only with the consent of the Government of the United States and the Government of the Northern Mariana Islands.

ARTICLE II.—CONSTITUTION OF THE NORTHERN MARIANA ISLANDS

SECTION 201

The people of the Northern Mariana Islands will formulate and approve a Constitution and may amend their Constitution pursuant to the procedures provided therein.

SECTION 202

The Constitution will be submitted to the Government of the United States for approval on the basis of its consistency with this Covenant and those provisions of the Constitution, treaties and laws of the United States to be applicable to the Northern Mariana Islands. The Constitution will be deemed to have been approved six months after its submission to the President on behalf of the Government of the United States unless earlier approved or disapproved. If disapproved the Constitution will be returned and will be resubmitted in accordance with this Section. Amendments to the Constitution may be made by the people of the Northern Mariana Islands without approval by the Government of the United States, but the courts established by the Constitution or laws of the United States will be competent to determine whether the Constitution and subsequent amendments thereto are consistent with this Covenant and with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands.

SECTION 203

(a) The Constitution will provide for a republican form of government with separate executive, legislative and judicial branches, and will contain a bill of rights.

(b) The executive power of the Northern Mariana Islands will be vested in a popularly elected Governor and such other officials as the Constitution or laws of the Northern Mariana Islands may provide.

(c) The legislative power of the Northern Mariana Islands will be vested in a popularly elected legislature and will extend to all rightful subjects of legislation. The Constitution of the Northern Mariana Islands will provide for equal representation for each of the chartered municipalities of the Northern Mariana Islands in one house of a bicameral legislature, notwithstanding other provisions of this Covenant or those provisions of the Constitution or laws of the United States applicable to the Northern Mariana Islands.

(d) The judicial power of the Northern Mariana Islands will be vested in such courts as the Constitution or laws of the Northern Mariana Islands may provide. The Constitution or laws of the Northern Mariana Islands may vest in such courts jurisdiction over all causes in the Northern Mariana Islands over which any court established by the Constitution or laws of the United States does not have exclusive jurisdiction.

SECTION 204

All members of the legislature of the Northern Mariana Islands and all officers and employees of the Government of the Northern Mariana Islands will take an oath or affirmation to support this Covenant, those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, and the Constitution and laws of the Northern Mariana Islands.

ARTICLE III.—CITIZENSHIP AND NATIONALITY

SECTION 301

The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provision of law, and who on that date do not owe allegiance to any foreign state, are declared to be citizens of the United States, except as otherwise provided in Section 302:

(a) all persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

(b) all persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless

under age, registered to vote in elections for the Mariana Islands District Legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975; and

(c) all persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands, on that date have been domiciled continuously in the Northern Mariana Islands beginning prior to January 1, 1974.

SECTION 302

Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the Constitution or laws of the United States or any court of record in the Commonwealth in the form as follows:

I being duly sworn, hereby declare my intention to be a national but not a citizen of the United States.

SECTION 303

All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States will be citizens of the United States at birth.

SECTION 304

Citizens of the Northern Mariana Islands will be entitled to all privileges and immunities of citizens in the several States of the United States.

ARTICLE IV.—JUDICIAL AUTHORITY

SECTION 401

The United States will establish for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands". The Northern Mariana Islands will constitute a part of the same judicial circuit of the United States as Guam.

SECTION 402

(a) The District Court for the Northern Mariana Islands will have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties or laws of the United States it will have jurisdiction regardless of the sum or value of the matter in controversy.

(b) The District Court will have original jurisdiction in all causes in the Northern Mariana Islands not described in Subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the District Court solely on the basis of this

Subsection, the District Court will be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

(c) The District Court will have such appellate jurisdiction as the Constitution or laws of the Northern Mariana Islands may provide. When it sits as an appellate court, the District Court will consist of three judges, at least one of whom will be a judge of a court of record of the Northern Mariana Islands.

SECTION 403

(a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus and other matters or proceedings will be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in this Article; provided that for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States Court of Appeals for the judicial circuit which includes the Northern Mariana Islands will have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to Subsection 402 (c).

(b) Those portions of Title 28 of the United States Code which apply to Guam or the District Court of Guam will be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in this Article.

ARTICLE V.—APPLICABILITY OF LAWS

SECTION 501

(a) To the extent that they are not applicable of their own force, the following provisions of the Constitution of the United States will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were one of the several States: Article I, Section 9, Clauses 2, 3, and 8; Article I, Section 10, Clauses 1 and 3; Article IV, Section 1 and Section 2, Clauses 1 and 2; Amendments 1 through 9, inclusive; Amendment 13; Amendment 14, Section 1; Amendment 15; Amendment 19; and Amendment 26; provided, however, that neither trial by jury nor indictment by grand jury shall be required in any civil action or criminal prosecution based on local law, except where required by local law. Other provisions of or amendments to the Constitution of the United States, which do not apply of their own force within the Northern Mariana Islands, will be applicable within the Northern Mariana Islands only with the approval of the Government of the Northern Mariana Islands and of the Government of the United States.

(b) The applicability of certain provisions of the Constitution of the United States to the Northern Mariana Islands will be without prejudice to the validity of and the power of the Congress of the United States to consent to Sections 203, 506 and 805 and the proviso in Subsection (a) of this Section.

SECTION 502

(a) The following laws of the United States in existence on the effective date of this Section and subsequent amendments to such laws will apply to the Northern Mariana Islands, except as otherwise provided in this Covenant:

(1) those laws which provide federal services and financial assistance programs and the federal banking laws as they apply to Guam; Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States; the Public Health Service Act as it applies to the Virgin Islands; and the Micronesian Claims Act as it applies to the Trust Territory of the Pacific Islands;

(2) those laws not described in paragraph (1) which are applicable to Guam and which are of general application to the several States as they are applicable to the several States; and

(3) those laws not described in paragraphs (1) or (2) which are applicable to the Trust Territory of the Pacific Islands, but not their subsequent amendments unless specifically made applicable to the Northern Mariana Islands, as they apply to the Trust Territory of the Pacific Islands until termination of the Trusteeship Agreement, and will thereafter be inapplicable.

(b) The laws of the United States regarding coastal shipments and the conditions of employment, including the wages and hours of employees, will apply to the activities of the United States Government and its contractors in the Northern Mariana Islands.

SECTION 503

The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable to them by the Congress by law after termination of the Trusteeship Agreement:

(a) except as otherwise provided in Section 506, the immigration and naturalization laws of the United States;

(b) except as otherwise provided in Subsection (b) of Section 502, the coastwise laws of the United States and any prohibition in the laws of the United States against foreign vessels landing fish or unfinished fish products in the United States; and

(c) the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended.

SECTION 504

The President will appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not

applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be citizens of the Trust Territory of the Pacific Islands who are and have been for at least five years domiciled continuously in the Northern Mariana Islands at the time of their appointments) who will be representative of the federal, local, private and public interests in the applicability of laws of the United States to the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within one year after the termination of the Trusteeship Agreement, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate to facilitate the transition of the Northern Mariana Islands to its new political status. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Northern Mariana Islands, the policies embodied in the law and the provisions and purposes of this Covenant. The United States will bear the cost of the work of the Commission.

SECTION 505

The laws of the Trust Territory of the Pacific Islands, of the Mariana Islands District and its local municipalities, and all other Executive and District orders of a local nature applicable to the Northern Mariana Islands on the effective date of this Section and not inconsistent with this Covenant or with those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana Islands will remain in force and effect until and unless altered by the Government of the Northern Mariana Islands.

SECTION 506

(a) Notwithstanding the provisions of subsection 503(a), upon the effective date of this Section the Northern Mariana Islands will be deemed to be a part of the United States under the Immigration and Nationality Act, as amended, for the following purposes only, and the said Act will apply to the Northern Mariana Islands to the extent indicated in each of the following Subsections of this Section.

(b) With respect to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands the provisions of Sections 301 and 308 of the said Act will apply.

(c) With respect to aliens who are "immediate relatives" (as defined in Subsection 201(b) of the said Act) of United States citizens who are permanently residing in the Northern Mariana Islands all the provisions of the said Act will apply, commencing when a claim is made to entitlement to "immediate relative" status. A person who is certified by the Government of the Northern Mariana Islands both to have been a lawful permanent resident of the Northern Mariana Islands and to have had the "immediate relative" relationship denoted herein on the effective date of this Section will be presumed to have

been admitted to the United States for lawful permanent residence as of that date without the requirement of any of the usual procedures set forth in the said Act. For the purpose of the requirements of judicial naturalization, the Northern Mariana Islands will be deemed to constitute a State as defined in Subsection 101(a) paragraph (36) of the said Act. The Courts of record of the Northern Mariana Islands and District Court for the Northern Mariana Islands will be included among the courts specified in Subsection 310(a) of the said Act and will have jurisdiction to naturalize persons who become eligible under this Section and who reside within their specific jurisdictions.

(d) With respect to persons who will become citizens or nationals of the United States under Article III of this Covenant or under this Section the loss of nationality provisions of the said Act will apply.

ARTICLE VI.—REVENUE AND TAXATION

SECTION 601

(a) The income tax laws in force in the United States will come into force in the Northern Mariana Islands as a local territorial income tax on the first day of January following the effective date of this Section, in the same manner as those laws are in force in Guam.

(b) Any individual who is a citizen or a resident of the United States, of Guam or of the Northern Mariana Islands (including a national of the United States who is not a citizen), will file only one income tax return with respect to his income, in a manner similar to the provisions of Section 935 of Title 26, United States Code.

(c) References in the Internal Revenue Code to Guam will be deemed also to refer to the Northern Mariana Islands, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof or of this Covenant.

SECTION 602

The Government of the Northern Mariana Islands may by local law impose such taxes, in addition to those imposed under Section 601, as it deems appropriate and provide for the rebate of any taxes received by it, except that the power of the Government of the Northern Mariana Islands to rebate collections of the local territorial income tax received by it will be limited to taxes on income derived from sources within the Northern Mariana Islands.

SECTION 603

(a) The Northern Mariana Islands will not be included within the customs territory of the United States.

(b) The Government of the Northern Mariana Islands may, in a manner consistent with the international obligations of the United States, levy duties on goods imported into its territory from any area outside the customs territory of the United States and impose duties on exports from its territory.

(c) Imports from the Northern Mariana Islands into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States.

(d) The Government of the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Mariana Islands and will encourage other countries to consider the Northern Mariana Islands a developing territory.

SECTION 604

(a) The Government of the United States may levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Mariana Islands in the same manner and to the same extent as such taxes are applicable within Guam.

(b) The Government of the Northern Mariana Islands will have the authority to impose excise taxes upon goods manufactured, sold or used or services rendered within its territory or upon goods imported into its territory, provided that such excise taxes imposed on goods imported into its territory will be consistent with the international obligations of the United States.

SECTION 605

Nothing in this Article will be deemed to authorize the Government of the Northern Mariana Islands to impose any customs duties on the property of the United States or on the personal property of military or civilian personnel of the United States Government or their dependents entering or leaving the Northern Mariana Islands pursuant to their contract of employment or orders assigning them to or from the Northern Mariana Islands or to impose any taxes on the property, activities or instrumentalities of the United States which one of the several States could not impose; nor will any provision of this Article be deemed to affect the operation of the Soldiers and Sailors Civil Relief Act of 1940, as amended, which will be applicable to the Northern Mariana Islands as it is applicable to Guam.

SECTION 606

(a) Not later than at the time this Covenant is approved, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Mariana Islands will be transferred to the Treasury of the United States, to be held in trust as a separate fund to be known as the "Northern Mariana Islands Social Security Retirement Fund". This fund will be administered by the United States in accordance with the social security laws of the Trust Territory of the Pacific Islands in effect at the time of such transfer, which may be modified by the Government of the Northern Mariana Islands only in a manner which does not create any additional differences between the social security laws of the Trust Territory of the Pacific Islands and the laws described in Subsection (b). The United States will supplement such fund if necessary to assure that persons receive benefits therefrom comparable to those they would have received from the Trust Territory Social Security Retirement Fund under the laws applicable thereto on the day preceding the establishment of the Northern Mariana Islands Social Security Retirement Fund, so long as the rate of contributions thereto also remains comparable.

(b) Those laws of the United States which impose excise and self-employment taxes to support or which provide benefits from the United States Social Security System will upon termination of the Trusteeship Agreement or such earlier date as may be agreed to by the Government of the Northern Mariana Islands and the Government of the United States become applicable to the Northern Mariana Islands as they apply to Guam.

(c) At such time as the laws described in Subsection (b) become applicable to the Northern Mariana Islands:

(1) the Northern Mariana Islands Social Security Retirement Fund will be transferred into the appropriate Federal Social Security Trust Funds;

(2) prior contributions by or on behalf of persons domiciled in the Northern Mariana Islands to the Trust Territory Social Security Retirement Fund or the Northern Mariana Islands Social Security Retirement Fund will be considered to have been made to the appropriate federal Social Security Trust Funds for the purpose of determining eligibility of those persons in the Northern Mariana Islands for benefits under those laws; and

(3) persons domiciled in the Northern Mariana Islands who are eligible for or entitled to social security benefits under the laws of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands will not lose their entitlement and will be eligible for or entitled to benefits under the laws described in Subsection (b).

SECTION 607

(a) All bonds or other obligations issued by the Government of the Northern Mariana Islands or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any State, territory or possession of the United States, or any political subdivision of any of them.

(b) During the initial seven year period of financial assistance provided for in Section 702, and during such subsequent period of financial assistance as may be agreed, the Government of the Northern Mariana Islands will authorize no public indebtedness (other than bonds or other obligations of the Government payable solely from revenues derived from any public improvement or undertaking) in excess of ten percentum of the aggregate assessed valuation of the property within the Northern Mariana Islands.

ARTICLE VII.—UNITED STATES FINANCIAL ASSISTANCE

SECTION 701

The Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop the economic resources needed to meet the financial responsibilities of local self-government. To this end, the United States will provide direct multiyear financial support to the Government of the Northern Mariana Islands for local government operations, for capital improvement programs and for economic

development. The initial period of such support will be seven years, as provided in Section 702.

SECTION 702

Approval of this Covenant by the United States will constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of the following guaranteed annual levels of direct grant assistance to the Government of the Northern Mariana Islands for each of the seven fiscal years following the effective date of this Section:

(a) \$8.25 million for budgetary support for government operations, of which \$250,000 each year will be reserved for a special education training fund connected with the change in the political status of the Northern Mariana Islands;

(b) \$4 million for capital improvement projects, of which \$500,000 each year will be reserved for such projects on the Island of Tinian and \$500,000 each year will be reserved for such projects on the Island of Rota; and

(c) \$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

SECTION 703

(a) The United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States. Funds provided under Section 702 will be considered to be local revenues of the Government of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

(b) There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be expended to the benefit of the people thereof as that Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in the Northern Mariana Islands and transported to the United States, its territories or possessions, or consumed in the Northern Mariana Islands, the proceeds of any other taxes which may be levied by the Congress on the inhabitants of the Northern Mariana Islands, and all quarantine, passport, immigration and naturalization fees collected in the Northern Mariana Islands, except that nothing in this Section shall be construed to apply to any tax imposed by Chapters 2 or 21 of Title 26, United States Code.

SECTION 704

(a) Funds provided under Section 702 not obligated or expended by the Government of the Northern Mariana Islands during any fiscal year will remain available for obligation or expenditure by that Government in subsequent fiscal years for the purposes for which the funds were appropriated.

(b) Approval of this Covenant by the United States will constitute an authorization for the appropriation of a pro-rata share of the funds provided under Section 702 for the period between the effective date of this Section and the beginning of the next succeeding fiscal year.

(c) The amounts stated in Section 702 will be adjusted for each fiscal year by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index using the beginning of Fiscal Year 1975 as the base.

(d) Upon expiration of the seven year period of guaranteed annual direct grant assistance provided by Section 702, the annual level of payments in each category listed in Section 702 will continue until Congress appropriates a different amount or otherwise provides by law.

ARTICLE VIII.—PROPERTY

SECTION 801

All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to real property in the Northern Mariana Islands on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be transferred to the Government of the Northern Mariana Islands. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to all personal property on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be distributed equitably in a manner to be determined by the Government of the Trust Territory of the Pacific Islands in consultation with those concerned, including the Government of the Northern Mariana Islands.

SECTION 802

(a) The following property will be made available to the Government of the United States by lease to enable it to carry out its defense responsibilities:

(1) on Tinian Island, approximately 17,799 acres (7,203 hectares) and the waters immediately adjacent thereto;

(2) on Saipan Island, approximately 177 acres (72 hectares) at Tanapag Harbor; and

(3) on Farallon de Medinilla Island, approximately 206 acres (83 hectares) encompassing the entire island, and the waters immediately adjacent thereto.

(b) The United States affirms that it has no present need for or present intention to acquire any greater interest in property listed above than that which is granted to it under Subsection 803(a), or to acquire any property in addition to that listed in Subsection (a), above, in order to carry out its defense responsibilities.

SECTION 803

(a) The Government of the Northern Mariana Islands will lease the property described in Subsection 802(a) to the Government of the

United States for a term of fifty years, and the Government of the United States will have the option of renewing this lease for all or part of such property for an additional term of fifty years if it so desires at the end of the first term.

(b) The Government of the United States will pay to the Government of the Northern Mariana Islands in full settlement of this lease, including the second fifty year term of the lease if extended under the renewal option, the total sum of \$19,520,600, determined as follows:

(1) for that property on Tinian Island, \$17.5 million;

(2) for that property at Tanapag Harbor on Saipan Island, \$2 million; and

(3) for that property known as Farallon de Medinilla, \$20,600.

The sum stated in this Subsection will be adjusted by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index from the date of signing the Covenant.

(c) A separate Technical Agreement Regarding Use of Land To Be Leased by the United States in the Northern Mariana Islands will be executed simultaneously with this Covenant. The terms of the lease to the United States will be in accordance with this Section and with the terms of the Technical Agreement. The Technical Agreement will also contain terms relating to the leaseback of property, to the joint use arrangements for San Jose Harbor and West Field on Tinian Island, and to the principles which will govern the social structure relations between the United States military and the Northern Mariana Islands civil authorities.

(d) From the property to be leased to it in accordance with this Covenant the Government of the United States will lease back to the Government of the Northern Mariana Islands, in accordance with the Technical Agreement, for the sum of one dollar per acre per year, approximately 6,458 acres (2,614 hectares) on Tinian Island and approximately 44 acres (18 hectares) at Tanapag Harbor on Saipan Island, which will be used for purposes compatible with their intended military use.

(e) From the property to be leased to it at Tanapag Harbor on Saipan Island the Government of the United States will make available to the Government of the Northern Mariana Islands 133 acres (54 hectares) at no cost. This property will be set aside for public use as an American memorial park to honor the American and Marianas dead in the World War II Marianas Campaign. The \$2 million received from the Government of the United States for the lease of this property will be placed into a trust fund, and used for the development and maintenance of the park in accordance with the Technical Agreement.

SECTION 804

(a) The Government of the United States will cause all agreements between it and the Government of the Trust Territory of the Pacific Islands which grant to the Government of the United States use or other rights in real property in the Northern Mariana Islands to be terminated upon or before the effective date of this Section. All right, title and interest of the Government of the Trust Territory of the Pa-

cific Islands in and to any real property with respect to which the Government of the United States enjoys such use or other rights will be transferred to the Government of the Northern Mariana Islands at the time of such termination. From the time such right, title and interest is so transferred the Government of the Northern Mariana Islands will assure the Government of the United States the continued use of the real property then actively used by the Government of the United States for civilian governmental purposes on terms comparable to those enjoyed by the Government of the United States under its arrangements with the Government of the Trust Territory of the Pacific Islands on the date of the signature of this Covenant.

(b) All facilities at Isely Field developed with federal aid and all facilities at that field usable for the landing and take-off of aircraft will be available to the United States for use by military and naval aircraft, in common with other aircraft, at all times without charge, except, if the use by military and naval aircraft shall be substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities so used may be charged at a rate established by agreement between the Government of the Northern Mariana Islands and the Government of the United States.

SECTION 805

Except as otherwise provided in this Article, and notwithstanding the other provisions of this Covenant, or those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana Islands, the Government of the Northern Mariana Islands, in view of the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands, and in order to protect them against exploitation and to promote their economic advancement and self-sufficiency:

(a) will until twenty-five years after the termination of the Trusteeship Agreement, and may thereafter, regulate the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent; and

(b) may regulate the extent to which a person may own or hold land which is now public land.

SECTION 806

(a) The United States will continue to recognize and respect the scarcity and special importance of land in the Northern Mariana Islands. If the United States must acquire any interest in real property not transferred to it under this Covenant, it will follow the policy of seeking to acquire only the minimal area necessary to accomplish the public purpose for which the real property is required, of seeking only the minimum interest in real property necessary to support such public purpose, acquiring title only if the public purpose cannot be accomplished if a lesser interest is obtained, and of seeking first to satisfy its requirement by acquiring an interest in public rather than private real property.

(b) The United States may, upon prior written notice to the Government of the Northern Mariana Islands, acquire for public purposes in accordance with federal laws and procedures any interest in real

property in the Northern Mariana Islands by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the parties. The United States will in all cases attempt to acquire any interest in real property for public purposes by voluntary means under this Subsection before exercising the power of eminent domain. No interest in real property will be acquired unless duly authorized by the Congress of the United States and appropriation are available therefor.

(c) In the event it is not possible for the United States to obtain an interest in real property for public purposes by voluntary means, it may exercise within the Commonwealth the power of eminent domain to the same extent and in the same manner as it has and can exercise the power of eminent domain in a State of the Union. The power of eminent domain will be exercised within the Commonwealth only to the extent necessary and in compliance with applicable United States laws, and with full recognition of the due process required by the United States Constitution.

ARTICLE IX.—NORTHERN MARIANA ISLANDS REPRESENTATIVE AND CONSULTATION

SECTION 901

The Constitution or laws of the Northern Mariana Islands may provide for the appointment or election of a Resident Representative to the United States, whose term of office will be two years, unless otherwise determined by local law, and who will be entitled to receive official recognition as such Representative by all of the departments and agencies of the Government of the United States upon presentation through the Department of State of a certificate of selection from the Governor. The Representative must be a citizen and resident of the Northern Mariana Islands, at least twenty-five years of age, and, after termination of the Trusteeship Agreement, a citizen of the United States.

SECTION 902

The Government of the United States and the Government of the Northern Mariana Islands will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than every ten years, the President of the United States and the Governor of the Northern Mariana Islands will designate special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto. Special representatives will be appointed in any event to consider and to make recommendations regarding future multi-year financial assistance to the Northern Mariana Islands pursuant to Section 701, to meet at least one year prior to the expiration of every period of such financial assistance.

SECTION 903

Nothing herein shall prevent the presentation of cases or controversies arising under this Covenant to courts established by the Constitution or laws of the United States. It is intended that any such cases

or controversies will be justiciable in such courts and that the undertakings by the Government of the United States and by the Government of the Northern Mariana Islands provided for in this Covenant will be enforceable in such courts.

SECTION 904

(a) The Government of the United States will give sympathetic consideration to the views of the Government of the Northern Mariana Islands on international matters directly affecting the Northern Mariana Islands and will provide opportunities for the effective presentation of such views to no less extent than such opportunities are provided to any other territory or possession under comparable circumstances.

(b) The United States will assist and facilitate the establishment by the Northern Mariana Islands of offices in the United States and abroad to promote local tourism and other economic or cultural interests of the Northern Mariana Islands.

(c) On its request the Northern Mariana Islands may participate in regional and other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for any other territory or possession of the United States under comparable circumstances.

ARTICLE X.—APPROVAL, EFFECTIVE DATES, AND DEFINITIONS

SECTION 1001

(a) This Covenant will be submitted to the Mariana Islands District Legislature for its approval. After its approval by the Mariana Islands District Legislature, this Covenant will be submitted to the people of the Northern Mariana Islands for approval in a plebiscite to be called by the United States. Only persons who are domiciled exclusively in the Northern Mariana Islands and who meet such other qualifications, including timely registration, as are promulgated by the United States as administering authority will be eligible to vote in the plebiscite. Approval must be by a majority of at least 55% of the valid votes cast in the plebiscite. The results of the plebiscite will be certified to the President of the United States.

(b) This Covenant will be approved by the United States in accordance with its constitutional processes and will thereupon become law.

SECTION 1003

The President of the United States will issue a proclamation announcing the termination of the Trusteeship Agreement, or the date on which the Trusteeship Agreement will terminate, and the establishment of the Commonwealth in accordance with this Covenant. Any determination by the President that the Trusteeship Agreement has been terminated or will be terminated on a day certain will be final and will not be subject to review by any authority, judicial or otherwise, of the Trust Territory of the Pacific Islands, the Northern Mariana Islands or the United States.

SECTION 1003

The provisions of this Covenant will become effective as follows, unless otherwise specifically provided:

(a) Section 105, 201-203, 503, 504, 606, 801, 903 and Article X will become effective on approval of this Covenant;

(b) Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601-605, 607, Article VII, Sections 802-805, 901 and 902 will become effective on a date to be determined and proclaimed by the President of the United States which will be not more than 180 days after this Covenant and the Constitution of the Northern Mariana Islands have both been approved; and

(c) The remainder of this Covenant will become effective upon the termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands.

SECTION 1004

(a) The application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Mariana Islands may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement.

(b) The Constitution of the Northern Mariana Islands will become effective in accordance with its terms on the same day that the provisions of this Covenant specified in Subsection 1003(b) become effective, provided that if the President finds and declares that the effectiveness of any provision of the Constitution of the Northern Mariana Islands prior to termination of the Trusteeship Agreement would be inconsistent with the Trusteeship Agreement such provision will be ineffective until termination of the Trusteeship Agreement. Upon the establishment of the Commonwealth of the Northern Mariana Islands the Constitution will become effective in its entirety in accordance with its terms as the Constitution of the Commonwealth of the Northern Mariana Islands.

SECTION 1005

As used in this Covenant.

(a) "Trusteeship Agreement" means the Trusteeship Agreement for the former Japanese Mandated Islands concluded between the Security Council of the United Nations and the United States of America, which entered into force on July 18, 1947;

(b) "Northern Mariana Islands" means the area now known as the Mariana Islands District of the Trust Territory of the Pacific Islands, which lies within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude and east of 144° east longitude;

(c) "Government of the Northern Mariana Islands" includes, as appropriate, the Government of the Mariana Islands District of the Trust Territory of the Pacific Islands at the time this Covenant is.

signed, its agencies and instrumentalities, and its successors, including the Government of the Commonwealth of the Northern Mariana Islands;

(d) "Territory or possession" with respect to the United States includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa;

(e) "Domicile" means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

Signed at Saipan, Mariana Islands on the fifteenth day of February, 1975.

FOR THE UNITED STATES OF AMERICA,
AMBASSADOR F. HAYDN WILLIAMS,
*Personal Representative of the
President of the United States.*

FOR THE PEOPLE OF THE NORTHERN
MARIANA ISLANDS,
EDWARD DLG. PANGELINAN,
*Chairman, Marianas,
Political Status Commission.*

VICENTE N. SANTOS,
*Vice Chairman, Marianas,
Political Status Commission.*

Members of the Marianas Political Status Commission:

Juan L. G. Cabrera, Vincente T. Camacho, Jose R. Cruz,
Bernard V. Hofschneider, Benjamin T. Manglona,
Daniel T. Muna, Dr. Francisco T. Palacios, Joaquin I.
Pangelinan, Manuel A. Sablan, Joannes R. Taimanao,
Pedro A. Tenorio.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 11, 1975.

HON. JAMES A. HALEY,

Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.J. Res. 549, a bill "To approve the 'Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America,' and for other purposes."

We strongly recommend that the first section of H.J. Res. 549, which contains the Covenant and the Joint Resolution approving the Covenant, be enacted. We have not had sufficient time to arrive at an Administration position on sections 2 and 3 of the bill, and we are currently expediting that process. We hope that we will be able to advise the Committee of our views on these two sections by July 18, 1975.

On July 1, 1975, the President submitted to both House of Congress for their approval a "Joint Resolution Approving the 'Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.'" The first section of H.J. Res. 549 is the Joint Resolution and the Covenant as transmitted by the President.

On June 17, 1975, the people of the Northern Mariana Islands voted in a plebiscite to approve the Commonwealth status as set forth in the Covenant. This plebiscite represented the capstone to more than twenty years of local efforts by the people of the Northern Mariana Islands to become a permanent part of the United States.

The Covenant Agreement in section 1 of H.J. Res. 549 was signed on February 15, 1975, by the Marianas Political Status Commission for the Northern Mariana Islands, and by Ambassador F. Haydn Williams for the United States. It is the result of more than two years of negotiations between the United States and a broadly representative delegation from the Northern Mariana Islands.

Favorable consideration of the Covenant by the Congress will represent one more important step toward fulfillment of the obligations which the United States undertook when the Congress approved by joint resolution the United Nations Trusteeship Agreement on July 18, 1947. Congressional approval of the freely expressed wish of the people of the Northern Mariana Islands will enable them to move toward their long sought goal of self-government in political union with the United States.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

CHANGES IN EXISTING LAW

House Joint Resolution 549 amends no existing laws.

INFLATIONARY IMPACT

The expenditures authorized involve necessary government expenditures in remote areas. It is the sense of the Committee that these outlays will not cause any inflationary impact.



Report of the Committee on
Foreign Relations, to
accompany H.J. Res. 549,
Senate Report No. 94-596.

COVENANT TO ESTABLISH A COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS IN POLITICAL UNION
WITH THE UNITED STATES OF AMERICA

JANUARY 27, 1976.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Foreign Relations,
submitted the following

REPORT

together with

MINORITY and ADDITIONAL VIEWS

[To accompany H.J. Res. 549]

The Committee on Foreign Relations and the Committee on Armed Services to which was referred jointly the joint resolution (H.J. Resolution 549).

To approve the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes having considered the same, report favorably thereon and recommends that the joint resolution do pass as follows:

(1) With an additional amendment by the Committee on Foreign Relations; and

(2) Without further amendment by the Committee on Armed Services.

PURPOSE OF HOUSE JOINT RESOLUTION 549

The purpose of House Joint Resolution 549 is to give Congressional approval to a Covenant which has been drawn up and agreed to by the United States Government and the Marianas Political Status Commission. Among other things the Covenant will provide progressively for: the creation of the Commonwealth of the Northern Mariana Islands within the American political system; a local constitution drafted and approved by residents of the Islands; local self-

government excepting the handling of foreign relations and military affairs, and the granting of American citizenship for qualified residents of the Commonwealth who desire it. The Covenant defines the future relationship between the Northern Mariana Islands and the United States and will be mutually binding when approved by the latter, the former already having done so. Although described as a commonwealth, the relationship is territorial in nature with final sovereignty invested in the United States and plenary legislative authority vested in the United States Congress. The essential difference between the Covenant and the usual territorial relationship, such as that of Guam, is the provision in the Covenant that the Marianas constitution and government structure will be a product of a Marianas constitutional convention, as was the case with Puerto Rico, rather than through an organic act of the United States Congress.

BACKGROUND OF THE TRUST TERRITORY OF THE PACIFIC ISLANDS

The Northern Marianas consist of 21 small islands six of which are inhabited and 14 of which are large enough to be identified by name. Altogether they measure 184 square miles compared to Guam's 209. Together with Guam, a U.S. territory with 100,000 American citizens living on it, they form a western Pacific entity known as the Mariana Islands. The Marianas archipelago is one of three making up the Trust Territory of the Pacific Islands, a United Nations trusteeship under United States administration, the other two being the Carolines and the Marshall Islands.

Saipan, Tinian and Rota, in that order, are the three largest islands of the Northern Marianas and most of the archipelago's 14,500 population lives on one or the other. The great majority of the people are Chamorros, the same as the 60,000 Chamorros of Guam who are American citizens. About half of the remainder of Guam's 100,000 population are civilian and military personnel from the mainlands and the rest are from other Asian and Pacific nations.

Geographically the Marianas are closer to Asia than to the United States. Extending northward from Guam 400 miles, they come to within 1,250 miles of Tokyo. They are 1,500 miles from Manila, 3,300 from Honolulu and 5,400 from San Francisco.

Since World War II, during which Guam, Saipan, Taiwan and various other Micronesian islands were won from the Japanese, the Northern Marianas have been administered by the United States. Since 1947, they have formed part of the Trust Territory of the Pacific Islands under a United Nations Trusteeship Agreement. That agreement placed under the United Nations trusteeship system about 2,100 tiny islands which amount in size to 700 square miles or an area somewhat less than half of Rhode Island. Including the Northern Marianas 14,500 people, these Micronesian islands altogether have a population of 115,000 divided into six distinct ethnic groups which speak at least nine different languages.

Some older Micronesians can remember four alien administrations. The Spanish period began with Magellan's discovery of the Mariana Islands in 1521. German influence began in the mid-nineteenth century. Guam was ceded to the United States in 1898 at the end of the Spanish-American War and the rest of the Mariana Islands and the Carolines

were sold to the Germans the next year under a separate agreement. The Japanese took Micronesia from Germany in 1914 and the League of Nations formally mandated its administration to Japan in 1920. The Japanese colonized and fortified parts of Micronesia and during the war some of the islands became crucial battlegrounds.

Micronesia was one of eleven territories in the United Nations trusteeship system and the only one now remaining. The agreement designating the Trust Territory of the Pacific Islands as a strategic trust was approved by the Security Council of the United Nations in April 1974. One of the distinguishing features of a "strategic trusteeship" is that given the nature of the special security considerations of the territory, the Security Council instead of the Trusteeship Council exercises all functions of the Organization with regard to these areas. The Security Council, however, may avail itself of the assistance of the Trusteeship Council in handling political, economic, social and educational matters in the strategic areas.

For the other ten trust territories, the General Assembly exercised the approval, alteration or amendment of the trusteeship agreements. Under Article 83 of the United Nations Charter, these are performed by the Security Council. The Article reads:

"Article 83

"1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

"2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

"3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas."

U.S. TS 993; 59 Stat. 1031, 1050.

Article 76 provides the basic objectives of the trusteeship system including: (a) the furtherance of international peace and security, (b) the promotion of the political and social advancement of the inhabitants of the trust territories including "progressive development toward self-government," the encouragement of respect for human rights, and the insurance of equal treatment.

Micronesia was divided into six U.S. districts of which the Northern Marianas is one. The U.S. Navy administered the Trust Territory in Micronesia until 1951 when administration was transferred to the Department of the Interior. The Northern Marianas, however, were again administered by the U.S. Navy from 1952 to 1962.

Since the creation of the Trust Territory of the Pacific Islands, United States policy has been to consider any new status for Micronesia on a territory-wide basis and not to engage in separate discussions about the future status of individual districts within the Trust Territory. An exception to that policy has been U.S. acceptance of a request

by the Marianas in 1972 to enter into separate status negotiations for the reasons given in the following section.

There is no fixed date for termination of the U.S. trusteeship in Micronesia. Consistent with the U.N. Trusteeship Agreement, however, the United States does not intend to terminate the trusteeship until it has fulfilled its responsibilities to all districts in Micronesia and has appropriately provided for the future status of the Trust Territory as a whole.

In accordance with Article 83 of the United Nations Charter and subsequent resolutions adopted by the Security and Trusteeship Councils, the latter oversees functions relating to the political, economic, social and educational advancement of the inhabitants of the Trust Territory of the Pacific Islands. The United States, a member of the Trusteeship Council, submits to it annual reports on its administration of the Trust Territory. The Trusteeship Council, in turn, submits reports annually on it to the Security Council. To date the Security Council has taken no action with respect to the Trust Territory beyond noting the receipt of the Trusteeship Council's annual reports.

The Trusteeship Council currently has five members: United States, United Kingdom, France, Soviet Union and the People's Republic of China, but China has not taken its seat. Australia was a member until September 16, 1975 when it relinquished its seat upon the attainment of independence of the Australian-administered Trust Territory of Papua New Guinea.

According to Mr. Robert S. Ingersoll, Deputy Secretary of State, the Trusteeship Council has expressed the hope that the peoples of the Trust Territory of the Pacific Islands would find it possible to remain in unity following termination of the trusteeship. The Council has also recognized, however, the repeated requests of the Northern Marianas for a status separate from the rest of Micronesia and in closer union with the United States than the more distant and less permanent relationship contemplated by representatives of the other districts of the Trust Territory.

HISTORY OF THE MARIANAS COVENANT

Mr. Ingersoll further testified that the United States had also supported for many years the principle that the peoples of the Trust Territory should remain united following termination of the trusteeship.

In 1969 the United States entered into negotiations with the Joint Committee on Future Status of the Congress of Micronesia, comprised of representatives of all the districts of the Trust Territory including the Northern Marianas, with a view to reaching agreement on a future political status for the Trust Territory as a whole. Agreement eluded the conferees. In August 1970, the Congress of Micronesia rejected a U.S. offer of Commonwealth status and has since sought a different and less close relationship with the United States than that sought by the Northern Mariana Islands. When it became clear that it would not be possible to negotiate an agreement on a future political status that would be acceptable to all the peoples of the Trust Territory, the United States agreed to enter into separate

negotiations with the representatives of the Northern Mariana Islands looking toward union with the United States.

Negotiations with Marianas Political Status Commission, which was established by the Marianas District Legislature to conduct the negotiations on its behalf, began in December 1972 and concluded on February 15, 1975 with the signing of the Covenant which was submitted to the people of the Marianas in a plebiscite on February 20, 1975. The Covenant was approved in the Marianas by a favorable vote of 78.8 percent. Ninety-five percent of the people of the Marianas eligible to vote were registered and 95 percent of these voted in the plebiscite.

The administrative separation of the Marianas from the rest of the Trust Territory will be initiated soon after the Covenant is approved by the United States Congress. Next, a constitution for the Marianas will be drafted at a Constitutional Convention. Once final approval has been obtained from that body it will be submitted to a referendum in the Marianas and then will be made subject to approval of the United States Government. United States approval will be the signal for elections of a new government and for the financial provisions of Article VI of the Covenant to become effective. At the time that the Trusteeship Agreement with the United Nations is terminated the President will issue a proclamation establishing the Commonwealth of the Northern Mariana Islands. According to documentation supplied to the Foreign Relations Committee, the Department of State recognizes it is obligated to seek Security Council approval of the termination of the trusteeship agreement.

TERMS OF THE COVENANT

Because most of the ten Articles of the Covenant provide for the welfare and self-government of the peoples of the Northern Mariana Islands, they are of primary concern to the Committee on Interior and Insular Affairs. Some, however, have provisions or clauses that are of particular concern to the Foreign Relations and Armed Services Committees.

The Covenant contains ten Articles, the highlights of which follow:

I. *Political Relationship* to be a self-governing Commonwealth under the sovereignty of the United States which will have complete authority over foreign affairs and defense matters.

II. *Constitution* to be formulated for a republican form of government similar to that of United States.

III. *Citizenship* to be conferred at time the Presidential Proclamation to terminate Trusteeship Agreement is promulgated to those qualified Marianans desiring it.

IV. *Judicial Authority* to be divided between the judiciary established by the Mariana Constitution and a District Court which will be part of the same U.S. judicial circuit as Guam.

V. *Applicability of Laws* of the United States, as the Congress may determine, except in specific cases.

VI. *Revenue and Taxation* provisions apply United States income taxes and customs duties but the Island government may levy additional taxes and the Northern Marianas will

not be included within the Customs Territory of the United States. All taxes and duties will be rebated for use by the Mariana government but in the case of the latter, only if they are subsequently applied by the United States.

VII. *U.S. Financial Assistance* in the form of grants of \$14 million for seven years for budgetary support and development; to be increased per the Consumer Price Index and to be continued after the original seven years as Congress provides.

VIII. *Property* to be available through an option lasting five years for the United States to lease for 50 years various sites to enable it to carry out its defense responsibilities.

IX. *Representation* for the Marianas in the United States if provided for by the Mariana constitution.

X. *Effective Dates* provide for a phasing in of the provisions with some becoming effective upon Congressional approval of the Covenant, others within 180 days of approval of the Mariana constitution, and the rest upon the termination of the Trusteeship Agreement.

SECTION-BY-SECTION ANALYSIS OF RELEVANT ARTICLES OF THE COVENANT

Half of the ten Articles of the Covenant contain provisions relating to either the handling of foreign relations or to the national security of the United States. These are:

Article I. "Political Relationship" consists of five sections, the first of which establishes the Northern Marianas as a self-governing Commonwealth in political unity with and under the sovereignty of the United States. Section 104 gives the United States complete responsibility with respect to matters relating to foreign affairs and national defense.

Article VI. "Revenue and Taxation" provides for the financing of the government of the Northern Marianas through the rebate of the United States income, customs and excise taxes and permits the Northern Mariana Islands to levy duties on goods imported into its territory from any area outside the customs territory of the United States and to impose duties on exports from its territories.

Section 603(d) of Article VI says; "The Government of the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Mariana Islands and will encourage other countries to consider the Northern Mariana Islands a developing territory."

Section 605 exempts the property of the United States and the household and other personal property of its military or civilian personnel from customs duties. It also provides specifically that the Soldiers and Sailors Relief Act of 1940 applies to the Northern Mariana Islands so as to make clear that this Article does not supersede the Act of 1940.

Article VIII. "Property" provides that, if a five-year option is exercised, the following property is to be made available to the United States by lease to enable it to carry out its defense responsibilities:

On Tinian Island 17,799 acres for \$17.5 million;

On Saipan Island 177 acres at Tanapag Harbor for \$2 million; and

All of Farallon de Medinilla Island for \$20,600.

This lease will be for 50 years with a 50-year renewal option without additional charge. The US affirms that it has no present need for or desire to acquire any greater interest in property than that listed above.

Section 804(b) of Article VIII provides that the air field facilities at Isley Field, developed with federal aid, will be available to the United States for use by its military aircraft without charge although the US Government assumes the responsibility of paying a reasonable share proportionate to use to the costs of operating and maintaining the facilities.

Article IX. "Northern Marina Islands Representative and Consultation" stipulates under Section 904(a) that the government of the US will give sympathetic consideration to the views of the Northern Mariana Islands on international matters directly affecting the Northern Mariana Islands.

Under Section 904(b) the United States promises to help the Commonwealth establish offices in the US and abroad to promote the economic, cultural or tourist interest of the Islands to participate in regional and other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for any other U.S. territory or possession.

Article X. "Approval, Effective Dates, and Definitions" establishes inter alia for making effective the various provisions of the Covenant. Some become effective immediately on approval by the Congress, others within 180 days after the President approves the Commonwealth's Constitution, and the rest upon the termination of the United Nations Trusteeship Agreement.

FOREIGN RELATIONS AND ARMED SERVICES COMMITTEES ACTIONS AND RECOMMENDATIONS

LEGISLATIVE HISTORY

H.J. Res. 549 was introduced in the House of Representatives on July 10, 1975. After a single day of hearings and a favorable report by the House Interior and Insular Affairs Committee, H.J. Res. 549 passed the House by voice vote. The Senate Interior and Insular Affairs Committee then held a hearing on H.J. Res. 549 and reported it favorably to the Senate with an amendment.

On October 22, 1975 H.J. Res. 549 was referred to the Senate Armed Services and Foreign Relations Committees, jointly, for a period not to extend beyond December 3, 1975. This reporting date was subsequently extended to January 27, 1976.

FOREIGN RELATIONS COMMITTEE HEARINGS

The Foreign Relations Committee held hearings on November 5. Testifying at the sessions were the Honorable Robert Ingersoll, Deputy Secretary of State, Ambassador F. Haydn Williams, the Presi-

dent's personal representative for Micronesian Status Negotiations, Rear Admiral William J. Crowe, Regional Director for East Asia and Pacific Affairs of the Department of Defense, Mr. Erwin D. Canham, Plebiscite Commission for the Marianas, and delegations from the Marianas Political Status Commission and the Congress of Micronesia.

These spokesmen for the Administration emphasized two central issues. First, approval of the Covenant will fulfill an international obligation under the United States trusteeship arrangement. Second, it will strengthen the national security of the United States in the Western Pacific. The Administration claims that the people of these islands have for over a generation expressed their desire to join in political union with the United States and that this Covenant will allow them to do so as a self-governing Commonwealth with the Marianas people becoming American citizens, governed under their own constitution, not as a colony but as an unincorporated territory of the United States. The Covenant, it is claimed, is not a treaty or an executive agreement but instead a federal relations act which follows previous federal legislation regulating the federal government's relations with other continental territories within the United States itself. Unlike these territories, however, this one has certain international aspects to it. The Administration considers that the Covenant helps fulfill American international obligations under the United Nations Charter and the Trusteeship Agreement. Furthermore the implementation of the Covenant would unite the Chamorro people of Guam and the Northern Marianas in common citizenship under one flag.

At the same time, the Administration feels that the Agreement is mutually beneficial. Its witnesses affirmed that the United States not only is a Pacific power (with Alaska and Hawaii extending territorial responsibilities far into that ocean), but that it intends to remain so. Guam, long a United States territory, houses important military bases essential to the nation's defense. Its isolated position will better be protected by the land lease arrangements on Tinian and Saipan. Equally important, to promote the cause of peace and stability in the Pacific Ocean, the Marianas must be denied to others. If the Northern Marianas were to separate from the United States under some other political arrangement, they could freely negotiate a lease of their lands to some other Pacific powers. Finally, although no expansion of the training and storage facilities is presently planned, the fifty year renewable lease of over 18,000 acres provides for such if necessary. It should be noted here that the Defense Department has \$1 million in its FY 1976 budget in order to plan for the improvement of the harbor and air bases there.

The delegation from the Northern Marianas, headed by Senator Pedro Tenorio, Chairman of the Marianas Political Status Commission, explained that the people of the Northern Marianas welcomed the Covenant because they have long desired union with the United States either through re-unification with Guam, by annexation by the state of Hawaii or through the proposed commonwealth status. Since the rest of the Trust Territory presently does not desire to end the trusteeship by becoming part of the United States, the Marianas consider this Covenant an expedient arrangement. They emphasize that it is not a colonial relationship and that they are willing to make sacrifices for the benefits they are to receive, such as the long-term

lease of their scarce land. Furthermore, they argue that a delay of approval of the Covenant means a denial of their right to self-government.

The Congress of Micronesia representatives, led by Mr. Bethwell Henry, Speaker of the House of Representatives of the Congress, gave qualified support to the Covenant. The Congress of Micronesia does not oppose in principle the expressed desire of the people of the Marianas to separate from Micronesia and enter into political union with the United States. However, they consider essential to the faithful discharge of an American international obligation that this separation be effected in a manner which protects the interests of the remaining districts and which preserves the ability of those districts to exercise their right of self-determination.

The view of the Congress of Micronesia is that the Resolution before the United States Congress leaves unsettled several major problems implicit in the separation of the Mariana Islands from the Trust Territory. Some of these issues were the status of the present Trust Territory capital, now located on Saipan, if and when the Marianas become self-governing. Another was the taxing and regulatory authority over the personnel or property of the Trust Territory government until its capital could be relocated. Other major issues to be resolved in advance of separation would be the financial provisions of the two separate governments and their competing or overlapping spheres of government authority and administration. In sum, while the Congress of Micronesia does not object to the Covenant, it would withhold full approval until it has certain guarantees from the Northern Marianas and the United States on these fiscal and administrative matters.

Arguments on the other side were heard at the Foreign Relations Committee meeting from Senator Gary Hart, Mr. Donald McHenry of the Carnegie Endowment for International Peace and Mr. Jose A. Cabranes, Counsel of the International League for the Rights of Man. At the Armed Services hearings twelve days later Mr. McHenry reappeared and raised some additional questions regarding the importance of the Marianas to the national defense structure.

During the hearings and the Committee meetings that followed some discussion ensued on the costs and obligations of the Covenant versus the rewards. Senator Hart called it an open-ended seven-year authorization bill which does not even allow for Congressional oversight or for the return of unspent monies to the Treasury.

Other witnesses, opposed to approving the Covenant, asked that it be studied at greater length to evaluate all of its implications. For example, how much credence can be given to the 78 percent vote in favor of the Covenant on the Marianas considering the obvious financial advantages being offered them by the United States and the fact that they had no alternative but to accept or reject it. According to these critics, the Marianas were offered rather handsome financial awards for accepting but were not offered the alternative of independence or free association if they did not. In addition they asked, since the Covenant offers step-by-step Commonwealth status, would the people of the Marianas still be content with the terms being offered today when its final provisions come into effect sometime in the 1980s. They inquire if perhaps these people will not then demand better con-

ditions, such as statehood or independence, and perhaps find among themselves a few individuals who would resort to violence to obtain either of these objections.

Opponents also claim that the covenant will take the only desirable piece of Pacific Ocean real estate in Micronesia for the military use of the United States and will make the nation vulnerable to charges of "colonialism" from all quarters.

One critic called it "an anachronistic demonstration of neo-colonialism," pointing out that it gives the Marianans citizenship but not all of the constitutional rights that mainland citizens enjoy, such as voting for the United States president. On the other hand, it restricts mainland American citizens from exercising full property and business rights on the islands. More importantly, the granting of American citizenship would make future independence of the archipelago almost impossible inasmuch as the Courts have decided that American citizenship cannot be withdrawn without specific legislation or a constitutional amendment.

Going from domestic legalities to international law practices, opponents of the new arrangements insist that the self-determination clause of the United Nations Articles does not embrace secession; that fragmentation or dismemberment of a Trust Territory had never been considered to be part of the process of decolonization. In other words, the people of the Northern Marianas constitute less than 13 percent of the Trust Territory and cannot be said to have the "right" of self-determination separate and apart from the other peoples of the Trust Territory.

Involved in this is whether the emphasis put on the rights of the individual "peoples" of Micronesia to find separate solutions to the final dissolution of the Trusteeship would not come back to haunt the United States in the United Nations.

Specifically, South Africa has made the point that individual ethnic groups should have the right to form independent "homeland" nations in Namibia (South West Africa) and in South Africa itself. The United States might find itself embarrassed in the United Nations in future years should South Africans again use this contentious argument.

With respect to the United Nations, these critics of the proposed Commonwealth reminded the Committees that Article 83 of the United Nations Charter calls for Security Council approval for any "alteration or amendment" to the agreement. Furthermore, the Covenant fails to provide for notifying the United Nations of United States' intentions to terminate the arrangement nor does it make any specific provisions for termination of the trusteeship. If the United States terminates unilaterally, they claim it would be violating the trusteeship arrangement. When it puts before the Security Council its termination arrangements, whatever they might be in the 1980s, they could at that time, given the nature of that body, be vetoed by one of the Security Council major powers or even could be voted down by a coalition of the lesser powers then on the Council on a rotating basis.

As for the remaining districts of the Trust Territory of the Pacific Islands, the Covenant puts them at a severe disadvantage. It would appear, according to these opponents that the United States is doing so because they have the temerity to insist on a free association which

fully meets United Nations' criteria, or because they demand the right to terminate unilaterally such a relationship.

Some critics also maintained that while the Covenant may be desirable from the point of view of the Northern Marianans a convincing case has not been made that it is in the national interest of the United States to approve the Covenant.

While many of these arguments pro and con were repeated before the Armed Services' General Legislative Subcommittee, that body concentrated on the military and strategic aspects of the proposal.

FOREIGN RELATIONS COMMITTEE ACTION

The Foreign Relations Committee considered H.J. Resolution 549 on November 13 and 20 and requested at the end of the second business meeting to have the report deadline extended. This was arranged to be done through January 27, 1976, for both itself and the Armed Services Committee. At the November 20, 1975 session the Members discussed two amendments introduced by Senators Pell and Percy. The latter would have approved the Covenant but would have postponed its implementation until such time as agreements covering the entire Trust Territory of the Pacific Islands could be presented for Congressional consideration.

The Pell Amendment's purpose was to recognize the desire of the Northern Mariana Island people to enjoy self-determination, but to declare that it is the sense of the Congress that the obligation of the United States to promote the development of the peoples of the Trust Territory of the Pacific Islands towards self-government or independence can best be accomplished by the submission to the Congress for its consideration of an agreement or agreements resolving the political status of all of the Trust Territory rather than on an individual basis.

In order to give these two proposals the study they deserved the aforementioned extension for reporting the resolution was requested and granted. That period of time permitted Senator Griffin to visit Guam and Saipan in the company of Senators Ernest F. Hollings, John C. Culver and Howard H. Baker, Jr. The last had previously been a member of the Committee. In addition, Senator Percy's Foreign Relations Committee staff assistant, Dr. Peter Poole, spent a week visiting Japan, Guam and Saipan before the next Committee business meeting was convened on January 20, 1976.

The reasons for approving the Covenant presented to Senators Griffin and Percy, therefore, had a telling effect on the considerations of the entire Committee. Despite arguments that the United States should be contracting rather than expanding its international obligations and that it should not treat part of the Trust Territory separately, Senator Griffin pointed out that after flying over the vast expanses of the Pacific Ocean to get there, he could see no reason why the various island groups such as the Marshalls, the Carolines and the Marianas should be united. Not only were the distances immense between them but so were their linguistic, ethnic and political differences. Furthermore, he said members of the Congress of Micronesia, whom he met while on Saipan and representing all six districts of the Trust Territory, had agreed that this step was a logical one.

Senator Griffin had also been greatly impressed by the fervor of the people of the islands to be part of the United States. For him the vote of 78.8 percent of the eligible electorate in favor of the Covenant signified the culmination of 25 years of work towards achieving a status comparable to that which fellow chamorros on Guam presently enjoy. Mr. Griffin told the Committee he believed that the geographic and ethnic ties of these Mariana Islands would eventually lead to a consolidation or merger between Guam and the northern islands.

Seeing two Senators from the Congress of Micronesia in the audience, Senator Griffin asked permission to have them address themselves to these points. Senator Edward Pangelinan, Chairman of the Marianas Political Status Commission, took the opportunity to discuss the terms of the United Nations trusteeship agreement. He pointed out that such language makes clear that the governing state has the obligation to develop the territory politically for independence or self self-government. The Northern Marianas have taken the second choice after three and a half years of negotiations on the terms. The rest of the Trust Territory districts have not come to a final decision but appear to want either independence or a looser association. Six months ago in what the Micronesian chairman described as "perhaps the most democratically held plebiscite throughout the world," and one which had been observed by a United Nations Visiting Mission, the Covenant was overwhelmingly accepted. Mr. Pangelinan stressed that the islands are ready for self government and that it meets the interests of both the United States and the islands to accept the Covenant.

Mr. Pedro A. Tenorio, a senator representing the Marianas in the Congress of Micronesia who had previously testified before all three U.S. Senate Committees at their respective hearings, added that the other five districts of Micronesia had refused an offer of commonwealth status. Because the Marianas leaders wanted this arrangement, separate negotiations were started. While those have been concluded, negotiations with the other five districts are still suspended. A delay by the Senate of the Covenant would be interpreted, said Senator Tenorio, negatively by the other Micronesian negotiators.

Another persuasive argument was presented by Senator Charles Percy as a result of Dr. Poole's visit to Japan to talk with Foreign Ministry officials there. Senator Percy's conclusions from Dr. Poole's report and from his own long experience in Pacific and United Nations affairs were as follows:

1. The partnership of Japan and the United States is the cornerstone of U.S. policy in East Asia and the Pacific;

2. One of the bases on which this partnership rests is the continuing stability of U.S. relations with the peoples of Micronesia, including the Marianas;

3. However, this stability in turn depends on the earliest possible self-determination of the Micronesian peoples;

4. Thus, the Foreign Relations Committee warmly welcomes the recent drafting of a Micronesian Constitution as an historic step toward self-determination for Micronesia, even as we now celebrate the bicentennial of our own nation's independence;

5. The Foreign Relations Committee also welcomes the unequivocal decision of the Northern Marianas people to seek self-determination within the United States' family;

6. The Committee believes it to be in the interest of all parties concerned to resolve outstanding issues regarding the free association of the five remaining districts of Micronesia—Palau, Ponape, Truk, Yap, and the Marshall Islands—with the United States with all due speed; and

7. The Committee therefore intends to monitor the negotiations for the Free Association Compact with these remaining districts of Micronesia to assure itself that we are, as a nation, fulfilling our responsibilities in as expeditious a manner as possible.

Notwithstanding the arguments in favor of approving the Covenant, Senator Pell repeated some of the aforementioned reasons why the Committee should not do so. In particular, he stated it was his firm belief that instead of adding to its international responsibilities by taking on its first territorial acquisition since 1917, the United States should be contracting its international obligations. He said that while the Covenant may be desirable from the point of view of the archipelago's people, Administration negotiators and other proponents, no convincing case had been made that the Covenant would serve U.S. national interests.

Furthermore, stated Mr. Pell, the Covenant violates certain aspects of those international agreements embodied under the trusteeship arrangements. He asked the Members to consider, for example, Principle VIII of General Assembly Resolution 1541 which reads as follows:

Principle VIII

Integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenships and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.

FOREIGN RELATIONS COMMITTEE AMENDMENT

Inasmuch as the Marianans would not be allowed to vote under the Covenant for federal officials, such as the president of the United States, he asserted they would not be "enjoying equal rights and rights of citizenship" nor would there be complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated." For these reasons Mr. Pell argued that it would be more prudent to defer judgment on Covenant until the Administration comes back with a package proposal dealing with all districts of the Trust Territory.

After some debate on this issue, during which it was pointed out that almost no self-government in history had ever arrived full-blown

ready to use and enjoy all the rights and privileges of constitutional government, Senator Javits made two proposals. One was to make clear that the United States would faithfully observe its legal and ethical obligations to the United Nations by reporting to it, whether required or not, any actions taken at this time with respect to the rest of the Trust Territory. In short, while reporting to the Security Council is mandatory in any event, full and open compliance with United Nations principles by the United States Government is the expressed wish of the Committee.

Second, because the Covenant might not give to the Marianans participation in the United States government which they may later desire and also to neutralize any argument that this was a step toward American "colonization" of part of its "trust", Senator Javits proposed giving the people of the Marianas the option to review their decision. Taking a portion of Section 902, found in Article IX, Senator Javits asked that a sense of the Congress resolution be appended to the end of the H.J. Res. 549 to read as follows:

It is the sense of the Congress that pursuant to section 902 of the foregoing Covenant, and in any case within 10 years from the date of the enactment of this resolution, the President of the United States should request on behalf of the United States the designation of special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto.

FOREIGN RELATIONS COMMITTEE VOTE

On the basis of this and other arguments Senator Pell asked for a recorded vote to table the Resolution which was defeated 7 to 4 with Senators Sparkman, Humphrey, Case, Javits, Scott, Percy and Griffin voting against and Senators Mansfield, Church, Pell and Clark in favor. Mr. Pell's motion to adopt a substitute amendment disapproving the Covenant without prejudice and until such time as agreements covering the entire Trust Territory came to the Congress was tabled 7 to 4 on a motion from Senator Case with the Senators voting as before. Finally, H.J. Resolution was voted to be reported out favorably 7 to 4. By a voice vote Senator Javit's sense of the Congress amendment was approved with only Senator Percy dissenting on the grounds that he was reluctant to make it appear that the United States had any indecision or doubts about giving full and final approval of the Covenant.

FOREIGN RELATIONS COMMITTEE RECOMMENDATION

The Senate Committee on Foreign Relations in open business session on January 20, 1976, by a seven to four vote of a quorum present recommends that the Senate adopt H.J. Res. 549 as amended as described above.

ARMED SERVICES COMMITTEE ACTION

General Legislation Subcommittee

The General Legislation Subcommittee of the Armed Services Committee held open hearings on H.J. Res. 549 on November 17, 1975. Appearing among other witnesses, were Mr. Robert Ellsworth, Assistant Secretary of Defense (International Security Affairs), Ambassador F. Hayden Williams, the President's personal representative for Micronesian Status Negotiations and Ambassador Robert Blake, Deputy Assistant Secretary of State (International Organization Affairs).

The Subcommittee held two further meetings in open session to deliberate on H.J. Res. 549.

In short, the Subcommittee concluded:

No crucial U.S. security interests are at stake in the Marianas; such security interests as the U.S. might have in the Marianas could be satisfied in a variety of ways other than through approval of the Covenant.

Approval of the Covenant will not contribute to U.S. economic or other interests, but on the contrary will result in economic costs and other problems for the United States.

Disposing of the Marianas at this time may cause unnecessary difficulties with the United Nations and set an unfortunate and disruptive precedent for dealing with the remaining Trust districts in Micronesia.

On January 20, 1976, the Subcommittee voted by five to two with one abstention to report favorably an amendment proposed by Senator Byrd. The Subcommittee amendment was in the nature of a substitute:

That the Congress hereby recognizes and sympathizes with the desires of the people of the Northern Mariana Islands to have and exercise the right of self-determination. The Congress also recognizes its obligation to promote the development of the peoples of the entire Trust Territory of the Pacific Islands toward self-government or independence and believes that such obligation can best be accomplished by a consideration of a plan or agreement resolving the political status of all of the Trust Territory of the Pacific Islands rather than by consideration of plans or agreements for one or more islands or groups of islands on a separate and individual basis.

The effect of the Subcommittee amendment would have been similar to the amendment proposed by Senator Pell. It would not have approved the Covenant as contained in H.J. Res. 549.

Armed Services Committee

On January 27, 1976 the full Committee met in open session to discuss and vote on H.J. Res. 549. Senator Byrd presented the Subcommittee's findings and conclusions.

After extensive deliberations the Committee concluded that it was in the best interests of the United States to report favorably H.J. Res. 549 as submitted to the Committee.

The Committee recognizes that the United States has a special obligation to provide for self-determination by the people of the Marianas as to their future political status. The people of the Marianas through the plebiscite endorsing the Covenant have expressed their wishes for U.S. commonwealth status. The United States government—executive officials as well as individual representatives of Congress—have over the years encouraged the aspirations and expectations of the Marianas people for a permanent political relationship with the United States. To deny to the people of the Marianas at this time the commonwealth status contained in H.J. Res. 549 would constitute a serious breach of faith by the United States.

The United States does have a security interest in the Marianas. The United States must remain a military power in the Pacific in order to preserve stability in the area. Acquisition of the Marianas pursuant to the proposed Covenant would help the United States maintain a credible and flexible military presence in the Pacific. Land in the Marianas could contribute to improving U.S. force readiness and would be militarily useful for training and logistics facilities. Most importantly, implementation of the proposed Covenant would ensure that use of the Marianas would be denied to foreign powers.

Approval of the Covenant would represent a natural and desirable development to enhance and support the U.S. territory of Guam. In virtually all significant respects—geographical, cultural and military—Guam and the Marianas constitute a single entity.

Thus the Committee concluded that it would be consistent with U.S. interests and responsibilities to approve the Covenant as contained in H.J. Res. 549.

Lastly, the Committee received a report from Senator Culver who had just returned from a visit to the Marianas. Based on this report, the Committee notes the absence of any suitable memorial to Americans who died in the liberation of the Marianas in World War II and strongly urges prompt action to develop a memorial park with an appropriate monument in accordance with sections 803(e) of the Covenant and 5 B of the Technical Agreement.

Armed Services Committee vote

Senator Byrd offered a motion that the Subcommittee amendment in the nature of a substitute for H.J. Res. 549 be reported favorably to the Senate. By a vote of eight to seven the Committee rejected the Byrd amendment. Senators Stennis, Cannon, McIntyre, Byrd of Virginia, Culver, Hart of Colorado and Scott of Virginia voted in favor of the amendment. Senators Jackson, Nunn, Leahy, Thurmond, Tower, Goldwater, Taft, and Bartlett voted in opposition to the amendment.

The full Committee then by a margin of nine to six voted to report H.J. Res. 549 favorably without amendment. Senators Jackson, McIntyre, Nunn, Leahy, Thurmond, Tower, Goldwater, Taft, and Bartlett voted in favor. Senators Stennis, Cannon, Byrd of Virginia, Culver, Hart and Scott of Virginia voted in opposition.

ARMED SERVICES COMMITTEE RECOMMENDATIONS

The Armed Services Committee recommends that H.J. Res. 549 do pass without further amendment.

MINORITY VIEWS OF THE FOREIGN RELATIONS COMMITTEE

The Administration's request that the Congress give its approval to a Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States raises the vital question of whether, regardless of the desires of the people of the Marianas, it is in the interest of the United States to enter into such a relationship. We have serious doubts that it is in the interest of this country to do so for the following reasons:

By taking on a new territory, the first since 1917 when we acquired the Virgin Islands, we would be exchanging a temporary responsibility for the welfare and security of the Marianas, under a United Nations trusteeship agreement, for a permanent responsibility whose implications have not been adequately thought through.

Advocates of the Covenant have stressed the historic responsibility of the United States for the welfare of the people of the Marianas and the clear mandate for annexation reflected by the plebiscite held in the Marianas on the Covenant. What those advocates overlook, however, is the fact that the United States has actively—and in our view wrongly—encouraged separatist sentiments in the Marianas and ignored the preference of the rest of Micronesia to maintain the integrity of the entire Trust Territory. The advocates of the Covenant also overlook the fact that the plebiscite was a flawed expression of the will of the people of the Marianas, as alternatives such as independence or free association were not offered; and the financial benefits to be provided to the Marianas were tied to acceptance of the Covenant.

More important and more disturbing, however, is the Administration's emphasis on the strategic value of the Northern Marianas and the inclusion in the Covenant of provisions for the acquisition on a long-term basis of property which could be used for military purposes. While the Administration has declared that there are no current plans to establish a military complex in the Northern Marianas, an option to do so is being developed without a full explanation of what role is envisioned for the Northern Marianas in America's Far Eastern policy. We have seen other instances, notably in the Indian Ocean regarding Diego Garcia, where an initially small and purportedly limited American military presence has grown like topsy without the implications of that action being fully explained or justified. And we recall the Administration's earlier plans to build a \$300 million base on Tinian.

Finally, there is the question of the property of engaging in a clearly expansionist act which flies in the face of the view of the United Nations as expressed in General Assembly resolutions 1541 and 1514 of 1960.

The first of these two resolutions sets forth twelve principles for determining whether trust territories have achieved self-government or independence as intended under the United Nations Charter.

Principle VIII dealing with whether integration with an independent State qualifies as achieving self-government, states the following:

Integration with an independent State should be on the basis of complete equality between the people of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship and equal guarantee of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.

Since under the terms of the proposed Covenant the people of the Northern Marianas will not be able to vote for President or elect Senators and Representatives to the Congress of the United States, it cannot be said that they have been accorded "equal rights and opportunities for representation and effective participation at all levels" of government. While today, Marianans seem prepared to accept second class status as part of receiving American citizenship, what will be the attitude of future generations of Marianans?

The second resolution cited above expresses the view of the General Assembly that in providing self-government or independence to Trust Territories the "partial or total disruption of the national unity and the territorial integrity" of such areas is incompatible with the United Nations Charter. The proposed Covenant would, of course, begin a process of dismemberment and perhaps extensive fractionalization of Micronesia.

It is for these reasons that we believe the Senate should give more thoughtful consideration to the Covenant and not be rushed into a decision. The Administration has already declared its intention to delay the formal establishment of the Marianas Commonwealth until it has developed arrangements governing the future status of the rest of Micronesia and has submitted to the Security Council a proposal or proposals for all areas of the Trust Territory. The target date for accomplishing that objective is 1981.

We see no reason why the Congress should not have the same opportunity as the Security Council will have to examine a complete package for all of Micronesia rather than proceeding in a piecemeal manner. Only through a comprehensive approach can the Congress intelligently weigh the implications involved and decide what it is in the interest of the United States to do.

That is why we continue to advocate an alternative approach declaring that it is the sense of the Congress that the obligation of the United States to promote the development of the peoples of the Trust Territory of the Pacific Islands toward selfgovernment or independence can best be accomplished by the submission to the Congress for its consideration of an agreement or agreements resolving the political status of all of the Trust Territory rather than on an individual basis.

FRANK CHURCH.
CLAIBORNE PELL.

MINORITY VIEWS OF THE ARMED SERVICES COMMITTEE

SUMMARY

H.J. Res. 549 would approve the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America". U.S. approval of this Covenant would represent a permanent grant to the people of the Marianas of extraordinary value and proportion, bestowing precious American rights and benefits, involving significant economic costs, and affecting the future course and aspirations of the United States.

Such a valuable and sweeping grant to a foreign territory should be made only if it clearly is in the best overall interests of the United States. In the case of the Mariana Islands, however, we could find no significant U.S. interest that would justify such a grant. On the contrary, U.S. interests could be better served through a more balanced and comprehensive arrangement dealing with the future status of the entire U.S. Trust Territory of the Pacific Islands.

We have particularly examined U.S. national security interests in the Marianas since these interests have been the major U.S. justification for entering into the Covenant with the Marianas.

We found no crucial U.S. national security interests at stake in the Marianas. To the extent there are U.S. security interests in the Marianas, these interests are similar to U.S. security interests throughout all of Micronesia. In addition, U.S. security interests in the Marianas can be satisfied in a variety of ways other than through the proposed Covenant.

We could find no other major U.S. interest in the Marianas, economic or otherwise. Indeed, U.S. approval of the Covenant would constitute a substantial economic cost to the United States. Moreover, several specific provisions of the Covenant are objectionable both in cost and principle.

In originally agreeing to hold the islands of Micronesia in trust, the United States undertook an obligation to the people of Micronesia, including the Marianas, to help them toward self-determination or independence. While the United States may be flattered that the people of the Marianas have indicated a desire to become associated with the United States, there is not now—and has never been—any obligation to make the Marianas a part of the United States.

The United States has made certain commitments to the United Nations in connection with its trusteeship of Micronesia. Disposing of the Marianas prior to agreeing on the future status of the rest of Micronesia may cause unnecessary difficulties with the United Nations and set an unfortunate and disruptive precedent for dealing with the remaining Trust districts in Micronesia.

CRITERION FOR EVALUATING HOUSE JOINT RESOLUTION 549

The fundamental criterion to evaluate any proposal concerning a modification of the status of the Trust Territory must be whether the proposed arrangement is in the best overall interests of the United States. The advantage to U.S. interests from making the Marianas a U.S. commonwealth—its first territorial acquisition in over fifty years—must be weighed against what the United States is providing or giving up through this particular Covenant. This is particularly true when the proposed arrangement includes such far reaching commitments as U.S. citizenship, sovereignty, and defense responsibilities. The burden of proof is on the proponents of any proposed arrangement to demonstrate its overall and long-term value to the United States.

The United States has accepted certain obligations and responsibilities in undertaking to administer the Trust Territory in the United Nations system. These obligations, along with the general goals and well-being of the people of the Marianas, cannot be ignored. But whether a proposal meets U.S. obligations to the people of the Marianas, Micronesia as a whole, or even the United Nations cannot be the primary test for choosing a future status arrangement.

U.S. INTERESTS AFFECTED BY HOUSE JOINT RESOLUTION 549

U.S. Defense and Security interests

In testimony before the General Legislation Subcommittee of the Armed Services Committee, witnesses from the Defense Department set forth a variety of U.S. defense interests associated with the Marianas. It was their judgment that the proposed covenant with the Marianas would fully protect and enhance these U.S. defense interests. The Covenant would provide valuable land which would be available for military purposes as well as a desirable environment from which to operate.

Although Defense witnesses mentioned many specific defense interests and objectives, they could be classified into essentially four categories:

1. Improve U.S. military credibility in Asia and the Pacific.
2. Provide a hedge and flexibility in defending existing U.S. presence in the Pacific.
3. Contribute to U.S. force readiness.
4. Deny area to other powers for military purposes.

The first category of U.S. defense interests in the Marianas was the enhancement of U.S. military credibility in Asia and the Pacific. The construction of U.S. military bases in the Marianas—although not presently planned—would constitute an additional U.S. military presence in Asia and the Pacific. This would buttress the U.S. maritime posture in the Pacific and lend support to U.S. allies by assuring freedom of transit through the area surrounding the Marianas. It was also pointed out that U.S. military bases in the Marianas would allow the United States to fulfill its responsibilities for civil air traffic control and search and rescue operations in that area.

In principle, enhancement of U.S. military credibility in the Pacific and Asia is desirable. In fact, however, U.S. military bases in the Marianas could do little to enhance meaningfully U.S. military credi-

bility. The land in the Marianas is not well suited to serve as a base for U.S. strategic forces—bombers, submarines, or missiles. Similarly, these areas in the Marianas could not be used as major operating bases for conventional forces. As contemplated by the Defense Department, the primary role of these areas if they were ever developed would be for training and logistic support.

As for protecting U.S. and allied maritime activities in the Pacific, the Marianas do not lie astride the most important commercial sea lanes in the Western Pacific. As a result, U.S. military bases in the Marianas would be of relatively minor significance in protecting important sea lanes.

The second category of U.S. defense interests associated with the Marianas was to provide a hedge and flexibility in defending the existing U.S. presence in the Pacific. Bases in the Marianas could help to defend Guam, Hawaii, Midway, Johnston Island and Wake Island. Moreover, bases in the Marianas could be a form of insurance against unforeseen U.S. basing changes elsewhere in Asia and the Pacific.

It is true that bases in the Marianas could offset to some extent the reductions in U.S. military capability that might accompany loss of U.S. basing rights in Japan, Korea, Taiwan, Philippines, etc. But Defense officials admitted that bases in the Marianas could not realistically substitute for any existing U.S. major operating bases in the Pacific and Asia.

Furthermore, U.S. bases in the Marianas would have only a marginal impact on providing for the defense of other U.S. possessions in the Pacific. A large number of U.S. military installations already exist to protect the U.S. presence in the Pacific. On the other hand, and U.S. installation in the Marianas would itself be vulnerable to attack. Approval of the Marianas Covenant would create a permanent defense commitment. Thus, rather than significantly improving U.S. defense in the Pacific, the Marianas Covenant may have the effect of adding to U.S. responsibilities in the Marianas.

In fact, acquisition of the Marianas might be construed by other nations as preparation for a U.S. withdrawal from forward-deployed installations in the Western Pacific. Such an unintended signal could tend to undermine our present foreign policy in the Western Pacific.

Any contribution that the Marianas could make to the first two categories of U.S. defense interests is of a contingent and conjectural nature. U.S. defense and foreign policy in Asia is not tied in any substantial sense to the construction of a military base in the Marianas.

The third category of U.S. defense interests that might be served by a U.S. military presence in the Marianas is more straightforward. Bases in the Marianas could help sustain U.S. combat readiness by providing a safe and convenient environment for a variety of military training exercises. Bases in the Marianas are also well suited for logistical support for forward deployments throughout Asia and the Pacific including the prepositioning of equipment and the storage of fuel and ammunition. Although the Defense Department has no present plans to construct military facilities in the Marianas, Defense officials declared that training and logistic support would be the primary missions for any future base construction in the Marianas. With the end of U.S. military activities in Southeast Asia and the increasing political pressure against U.S. military training in Asian countries, the

availability of training areas has become a serious concern to the Defense Department.

We appreciate the need for suitable training and logistic areas in order to maintain U.S. force readiness. Nevertheless, training and logistic support in the Marianas, while important, is not crucial or essential to U.S. military needs. Rather, such facilities would be convenient and useful to the U.S. defense posture. The general problem of insufficient training and support areas for U.S. forces exists throughout the world. A variety of alternative sites could serve the same function as those in the Marianas, although at a perhaps higher construction cost.

It should be pointed out that a variety of desirable but not indispensable U.S. military interests could be satisfied in other parts of Micronesia. From a military standpoint, the Kwajalein Missile Range in the Marshall Islands, where the United States has already invested over \$350 million, is probably a much more important U.S. defense asset than the proposed land acquisition in the Marianas.

The last category of defense interests in the Marianas is the denial of the area to other military powers. This is unquestionably an important U.S. defense interest which the United States should strive to preserve. This interest, however, applies to all of Micronesia. More significantly, it could be achieved—albeit less emphatically—through a variety of other means such as a status of free association between the United States and the Marianas, a direct defense treaty with the Marianas, specific agreements on U.S. basing rights, etc.

In short, a thorough review of the U.S. defense rationale for the Marianas did not persuade us that any vital U.S. defense interests were at stake. While U.S. base rights may be desirable in the Marianas, they are not essential either in a strategic or tactical sense. Even more relevant, such U.S. defense interests as there are in the Marianas could be satisfied in a variety of ways beyond granting commonwealth status to the Marianas. The Marianas are too small, too remote, and too underdeveloped to contribute substantially to the U.S. defense posture. Thus U.S. defense interests should not be a primary justification for approving the Covenant contained in H. J. Res. 549.

OTHER U.S. INTERESTS

Acquisition of the Marianas could serve no useful economic purpose for the United States. The Marianas lack any exportable natural resources. Due to its small population, the Marianas offer neither a major labor source or a potential market.

The largest employer in the Marianas is the government. Upwards of 75 percent of the total wage income in the Marianas during FY 1974 was from the government. Thus it will be many years in the future before the Marianas will be even self-sufficient economically.

We are unable to identify any other advantages that might flow to the United States as a result of the approval of the proposed Covenant.

COST OF THE MARIANAS COVENANT

The General Legislation Subcommittee requested from the Administration a detailed estimate of the total cost to the United States which would result from creating the proposed commonwealth. Un-

fortunately, no comprehensive cost estimate was available, although component costs could be identified.

Under the proposed covenant, the Marianas would receive \$19.5 million if the United States exercises its option to lease land for military purposes. This amount would be increased for inflation since July 1974. Another one-time expenditure is \$31.9 million which the Coast Guard estimates would be necessary to construct facilities in the Marianas in the event the islands become U.S. possessions.

The United States would also be required to give the Marianas in grant assistance \$14 million yearly for the next seven years. This amount would be automatically increased from the July 1974 base to make up for any inflation. The Covenant requires that this annual constant dollar payment will be paid indefinitely after the initial seven-year period unless Congress takes affirmative action to the contrary. In addition, these funds from the United States will be considered local in nature for the purpose of obtaining further federal matching funds. The \$14 million alone equates to \$1,000 constant dollars yearly for every inhabitant of the islands.

The people of the Marianas will also be eligible for a full range of federal programs and services. Administration witnesses estimate that, based on the experience in Guam, the cost of federal services to the Marianas would be roughly \$285 per person. Other information offered to the General Legislation Subcommittee, however, indicates that this cost could be vastly higher. Based on estimates of additional costs forecast by only three departments, HEW, Transportation and Agriculture, the acquisition of the Marianas could cost an additional \$12 million yearly. On this basis, the total yearly cost to the United States, excluding the one-time payments, would be about \$27.6 million a year. On a per capita basis this represents nearly \$2,000, approximately 10 times more than the average annual per capita federal payments to the states of the union.

We are concerned about this relatively high level of federal payments to the inhabitants of the Marianas, particularly in light of the tax provisions contained in the Covenant. Under the Covenant the Marianas would retain locally all duties and income taxes collected there under existing law, including the income taxes paid by federal employees and military personnel. The Covenant also allows the Marianas legislature to rebate any or all of these taxes at its own discretion. In summary, Covenant would allow the Marianas to avoid, in effect, the payment of any income taxes to the U.S. government.

We believe that these tax provisions are ill-advised and deserving of further study.

OTHER QUESTIONS RAISED BY THE COVENANT

In addition to the tax and revenue provisions we are also concerned about other features of the Covenant, particularly its irrevocable nature. If the Covenant is enacted into law, no change may be made to certain of its fundamental provisions without the agreement of both the United States and the future government of the Marianas.

Several sections of the Covenant raise problems which might prove detrimental to the interests of all the people of the United States. Some of these are:

Land ownership could be denied to mainland Americans for at least the first 25 years under the Covenant.

The Marianas government would have to approve the application of any future U.S. constitutional amendments to the islands.

The principle of "one man, one vote" would not apply to Marianas legislature.

The right to indictment by grand jury and trial by jury in cases of violations of Marianas law would be denied to all Americans when in the islands.

The Covenant would bind the Congress to refrain from exercising its authority without the consent of the Mariana Islands in certain enumerated areas which would otherwise be under Congressional authority through Article IV, Section 3, Clause 2 of the United States Constitution. Consent of the parties would be necessary to alter certain fundamental provisions of the Covenant such as the political relationship between the United States and the Marianas, U.S. citizenship, rights of land ownership, etc.

U.S. OBLIGATIONS TO THE MARIANAS AND MICRONESIA

In accepting the Trust Territory for the Pacific Islands, the United States agreed to certain obligations and responsibilities as set forth in the Trust Agreement. Among other things, these obligations include promoting the economic, social and educational advancement of the inhabitants of the Trust Territory, as well as guaranteeing security and certain basic freedoms. Of special significance, the United States undertook to promote the development of self-government or independence for the people of the Trust Territory.

For almost thirty years the United States has been working to meet these responsibilities. In particular, the United States has made a sincere effort to encourage the people of Micronesia to work out their own future political status. It should be emphasized, however, that a United States commitment to promoting self-determination or independence for Micronesia does not encompass any obligation for the United States to join in permanent political union with Micronesia or any part thereof.

U.S. obligations and responsibilities extend to the entire Trust Territory. Indeed, it is essential that the United States be even-handed in its treatment of all parts of Micronesia. Singling out the Marianas for special treatment at this time must inevitably affect the terms of future status for the remaining areas of Micronesia. To the extent this splintering off of the Marianas causes problems for the rest of Micronesia, these problems will ultimately have to be confronted by the United States. If the fragmentation of Micronesia leaves some areas unable to achieve self-determination, they will remain the responsibility of the United States. Similarly, to the extent that the United States grants political rights and privileges to the Marianas, it will constitute a strong precedent for other areas such as the Marshalls or the Carolines to insist upon a similar arrangement.

Finally, we believe there is no compelling reason to resolve immediately the future status of the Marianas. While we would favor expeditious action regarding the disposition of the entire Trust Territory, there is no urgency which requires special treatment for the Marianas at this time.

THE MARIANAS COVENANT AND THE UNITED STATES

The Trust Territory is the only remaining trust territory of the original 11 United Nations trusteeships. To be consistent with the spirit of the Trust Agreement the Trusteeship should be terminated at one time. Furthermore, the Trust Territory was created under the authority and with the approval of the United Nations. Article 83 of the United Nations Charter calls for Security Council approval for any "alteration or amendment" to the Trust Agreement. Thus, any termination of the Trust Territory should be pursuant to the authority of the United Nations.

The Covenant itself does not deal with the termination of the Trust Territory nor does it make any provision for notifying the United Nations. Nevertheless, the United States is rightly dedicated to terminating the Trust Territory as soon as possible. The United States intends to terminate the Trust Territory only when the future status of the entire Trust Territory has been resolved. Also, the United States intends to submit its termination scheme for the Trust Territory to the United Nations. In light of this substantial and necessary involvement of the United Nations in the termination of the Trust Territory as a whole, it would appear desirable to consider an overall plan to terminate the Trust Territory prior to taking steps to terminate a portion of the Trust Territory. In addition to allowing the Congress to be better informed generally, development of an agreement covering the disposition of the entire Trust Territory could reduce the uncertainty surrounding future action by the United Nations with regard to the Trusteeship.

JOHN C. STENNIS,
HOWARD W. CANNON,
HARRY F. BYRD, Jr.,
GARY HART,
WILLIAM L. SCOTT.

Public Law 94-365 (H.R. 14484),
July 14, 1976, An Act to make
permanent the existing temporary
authority for reimbursement of
States for interim assistance
payments under title XVI of the
Social Security Act.



Public Law 94-365
94th Congress, H. R. 14484
July 14, 1976

An Act

To make permanent the existing temporary authority for reimbursement of States for interim assistance payments under title XVI of the Social Security Act, to extend for one year the eligibility of supplemental security income recipients for food stamps, and to extend for one year the period during which payments may be made to States for child support collection services under part D of title IV of such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Social Security
Act, amend-
ments.

INTERIM ASSISTANCE

SECTION 1. Section 1631(g) of the Social Security Act is amended by striking out paragraph (6). 42 USC 1383.

FOOD STAMP ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS

SEC. 2. Section 8 of Public Law 93-233 is amended, subject to such further modifications as may hereafter be made in the provisions of law involved, by striking out "the 30-month period beginning January 1, 1974" where it appears— 7 USC 2012 note.

(1) in the matter preceding the colon in subsection (a) (1), and in the new sentence added by such subsection, and

(2) in subsections (a) (2), (b) (1), (b) (2), (b) (3), and (e). and by inserting in lieu thereof in each instance "the period ending June 30, 1977". 7 USC 2012 note, 612c notes, 1431 note, 42 USC 1382e note.

CHILD SUPPORT COLLECTION PAYMENTS

SEC. 3. Section 455(a) of the Social Security Act is amended by striking out "June 30, 1976" in the matter following paragraph (2) and inserting in lieu thereof "June 30, 1977". 42 USC 655.

Approved July 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1296 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 122 (1976):
June 28, considered and passed House.
June 30, considered and passed Senate, amended.
July 1, House disagreed to Senate amendments.
July 2, Senate receded from its amendments.

Report of the Committee on
Ways and Means, to accompany
H.R. 114484, House of
Representatives Report No.
94-1296.

EXTENSION OF CERTAIN TEMPORARY PROVISIONS UNDER SSI AND CHILD SUPPORT PROGRAMS

JUNE 24, 1966.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means,
submitted the following

REPORT

[Including cost estimate of the Congressional Budget Office]

[To accompany H.R. 14484]

The Committee on Ways and Means, to whom was referred the bill (H.R. 14484) to make permanent the existing temporary authority for reimbursement of States for interim assistance payments under title XVI of the Social Security Act, to extend for one year the eligibility of supplemental security income recipients for food stamps, and to extend for one year the period during which payments may be made to States for child support collection services under part D of title IV of such Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. GENERAL DISCUSSION OF THE PROVISIONS

EXTENSION OF THE INTERIM ASSISTANCE REIMBURSEMENT PROGRAM

Section 1 of H.R. 14484 amends title XVI to permanently extend the Interim Assistance Reimbursement Program which was enacted in 1974 for the purpose of providing Federal reimbursement to states for interim assistance payments made to individuals awaiting final determination on their applications for benefits from the supplemental security income program for the aged, blind and disabled. The IAR program was established to alleviate hardships on potential SSI recipients resulting from delay in determination of SSI eligibility. Federal reimbursement is made only for applicants who are subsequently determined eligible for SSI payments. There is no cost to the Federal government because SSI payments are retroactive to the date of application once eligibility is determined.

Participation in the IAR program is an option which the states may exercise through agreement with the Department of Health,

Education and Welfare—an agreement which permits reimbursement to the state or directly to a state or local agency within the state. Currently, 24 states and the District of Columbia participate directly or have agencies which participate in the IAR program.

The statutory provisions relating to the interim assistance program an expiration date of June 30, 1976.

In its statutorily mandated report on the IAR program, the Department of Health, Education and Welfare recommended that the Interim Assistance Program be made permanent based on the demonstrated effectiveness and efficiency of the program.

ELIGIBILITY OF SUPPLEMENTARY SECURITY INCOME RECIPIENTS FOR FOOD STAMPS

Section 2 of the bill would extend the provisions of section 8 of Public Law 93-233 until July 1, 1977 or until modifications of the law affecting food stamp eligibility are enacted, whichever occurs earlier.

Under section 8 of Public Law 93-233, Supplemental Security Income recipients are entitled to purchase food stamps except in those states in which the federal government is contributing an equivalent amount through the states' "hold harmless" payments under Section 401 of Public Law 92-603 (Public Law 92-603 established the SSI program).

Section 8 expires on June 30, 1976, at which time the provisions of Public Law 93-86 would take effect. Public Law 93-86 was enacted before Public Law 92-603 became effective. Public Law 93-86 would necessitate a complicated procedure whereby each recipient, would have his actual benefit compared to a calculated benefit that would have been payable under the Federal-State programs. In other words, the individual eligibility determination would have been made on the basis of whether current income is larger or smaller than that received or would have been received in December 1973. The states objected strongly to these provisions calling them unworkable and administratively costly.

As a temporary solution, Public Law 93-233 was enacted in January 1974. This law suspended the complex formula required in Public Law 93-86 for 6 months until July 1, 1974. Since that time, the temporary provisions of Public Law 93-233 have been extended two additional times and are currently due to expire on June 30, 1976.

In addition, the Agriculture Committee is in the process of marking up a food stamp reform bill. However, it is now clear that the bill will not become law prior to the expiration of section 8 of Public Law 93-233. The Agriculture Committee has indicated it would have no objection to the extension of the existing food stamp provisions until a food stamp reform bill is enacted.

Accordingly, your committee's bill would extend the provisions of section 8 of Public Law 93-233 to either June 30, 1977 or until the passage of relevant food stamp legislation, whichever occurs first.

CONTINUATION OF FEDERAL MATCHING FOR STATE CHILD SUPPORT
PROGRAMS FOR NON-WELFARE RECIPIENTS

Section 3 would continue for 1 year, Federal matching for state Child Support Programs for non-welfare recipients.

Public Law 93-647 contained a provision requiring states to establish a child support program. A part of that law mandates states to make available services for the determination of paternity, child support collection and enforcement. These services would be available to public assistance recipients and those individuals not on public assistance.

Section 455 of the Social Security Act which provides Federal sharing in the cost of the above-named services for non-welfare recipients, expires on June 30, 1976.

The American Public Welfare Association, the American Bar Association, and numerous District Attorneys urge the extension of this provision. States have been slow to implement the law.

This section would continue 75 percent Federal matching for such services for non-welfare recipients for one calendar year. This would give states adequate time to develop these systems and collect fees for the services so the program can become self-supporting.

II. OTHER MATTERS REQUIRED TO BE DISCUSSED

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made. The Congressional Budget Office estimate is contained in section III of this report. Your Committee believes the estimate to be reasonable.

In compliance with clause 2(1)(2)(B) of rule XI of the House of Representatives, the following statement is made. The bill H.R. 14484 was ordered favorably reported to the House of Representatives by a voice vote.

In compliance with clause 2(1)(4) of rule IX of the House of Representatives, the following statement is made. H.R. 14484 should not have any inflationary impact on prices or on the cost of operation of the national economy because it has no significant cost features.

In compliance with clause 2(1)(3) subdivisions (A), (B) and (D) of rule XI of the House of Representatives, the following statements are made. With respect to subdivision (A) of clause (3), the Committee advises that there has been some oversight of the three programs affected by this legislation by the Subcommittee on Oversight of the Committee on Ways and Means. The findings of that Subcommittee are presented in Section IV of this report.

With respect to subdivision (B) of clause (3), the following statement is made. The bill continues budget authority under existing law. The bill contains no new tax expenditures.

With respect to subdivision (D) of clause (3), the Committee advises that no oversight findings or recommendations have been made by the Committee on Government Operations with respect to the subject matter of this legislation.

In compliance with rule XI, clause 2(1)(3)(C), a cost estimate for H.R. 14484 prepared by the Congressional Budget Office is contained in Section III of this report.

III. VIEWS OF THE CONGRESSIONAL BUDGET OFFICE

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 24, 1976.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 14484, legislation affecting Titles IV and XVI of the Social Security Act.

As you will note, the Congressional Budget Office has indicated that there will be no budgetary cost for any provisions of the Committee bill. Explanations for these determinations are provided in the cost estimate discussion.

Should the Committee so desire, we would be pleased to discuss this cost estimate further with Members or staff.

Sincerely,

ALICE M. RIVLIN, *Director.*

COST ESTIMATE

The Congressional Budget Office has determined that Sections 1 and 2 of H.R. 14484 will have no current or future cost impact.

Additionally, Section 3, although it involves a cost, will have no cost impact on either the Congressional Budget Office scorekeeping report or the amount of budget authority and outlays allocated to the relevant House and Senate Committees by the First Concurrent Resolution for fiscal year 1977.

BASIS FOR ESTIMATE

Section 1 of H.R. 14484 makes permanent existing policy. The interim payments to SSI applicants are made by States basically to mitigate the impact of the waiting period for certification. The Federal government only reimburses the States for payments which were made to applicants who were eligible during the period for which they received interim payments. In the absence of this reimbursement provision, no State would have the incentive to make interim payments and it appears that the Federal government would be liable for retroactive payments to eligible SSI applicants. While the expiration of reimbursement authority might delay outlays and alter the methods of payment, it does not seem that it could save the Federal government money.

Section 2 of H.R. 14484 extends the provision of title XVI which authorizes the automatic categorical eligibility of SSI recipients, for Food Stamp benefits. The expiration of this provision would compel

SSI recipients to go through normal application and certification procedures for the Food Stamp Program. The application and certification process would not deny any SSI recipients Food Stamp eligibility since the SSI means and assets test would also qualify SSI recipients for Food Stamp benefits. Additionally, the participation of SSI eligibles in the Food Stamp Program is unlikely to be reduced by the expiration of automatic eligibility since it appears currently that only the most needy SSI recipients are using food coupons (the participation rate is estimated by CBO to be about 30 percent in non-cash-out states). The most needy recipients are also those whose participation is least affected by additional administrative procedures. Also, it is possible that in the longer term the requirement that SSI recipients follow normal application procedures for Food Stamps will increase the administrative costs of the program to the Federal government. (In the short run, administrative costs are assumed to be fixed.)

Section 3 of H.R. 14484 extends for one year the authorization for the Federal government to provide administrative and enforcement payments to States for the AFDC Child Support Program. The CBO has included \$51 million of such payments in its base estimate of AFDC program costs for fiscal year 1977. The First Concurrent Budget Resolution includes an equivalent amount. The enactment of this Section therefore will require no adjustment in the CBO score-keeping report or in the amounts allocated to the relevant House and Senate Committees under the First Concurrent Resolution.

IV. FINDINGS OF THE SUBCOMMITTEE ON OVERSIGHT

Interim Assistance Reimbursement is an essential service, particularly in view of the nearly month long processing times for SSI eligibility. The Subcommittee believes, however, that there may be problems in coordinating the payment of emergency interim assistance with the payment of regular benefits. For example, the Subcommittee has received reports from the City of New York that as much as \$3.3 million may be lost because of the lack of a central Social Security Administration coordinator in the City. As a result, an interim assistance check is sometimes issued at the same general time that a regular benefit check is being issued and the individual receives an overpayment. Because of the relatively low level of benefits, it is often impossible to recover fully these overpayments from the individual since the beneficiary is usually in desperate need of the funds and spends them immediately.

The Oversight Subcommittee is scheduling a field hearing on SSI in New York City in late July and will discuss with Social Security officials how interim assistance reimbursement check issuances can be better coordinated with the regular benefit application process.

In the area of Food Stamps, the Oversight Subcommittee Chairman has written to the House and Senate Agriculture Committees regarding provisions in the H.R. 13613 and S. 3136 which would encourage or provide for the acceptance and processing of food stamp applications at Social Security offices. While this would certainly be a convenience for the beneficiaries and "one stop" service is an admirable goal, the Oversight Subcommittee Chairman warned of the already

heavy workload, crowded conditions and high error rates at Social Security offices.

The acceptance and processing of food stamp applications at Social Security offices should be undertaken carefully and only when the Social Security Administration is fully prepared. Otherwise, additional errors and work pressures will further impact adversely on the quality of all Social Security services.

With respect to the child support provisions of Public Law 93-647, the Oversight Subcommittee has been concerned about the delays in the program and plans to hold an Oversight hearing with DHEW and IRS officials in September, after the IRS begins its first collection actions under Public Law 93-647. The subcommittee is concerned that the backlog of delinquent tax accounts is already so serious that the IRS will have difficulty in administering the new program, with the result that estimated savings from the program may be seriously exaggerated.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

SOCIAL SECURITY ACT

* * * * *

TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

* * * * *

PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

* * * * *

PAYMENTS TO STATES

SEC. 455. (a) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1975, an amount—

(1) equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454, and

(2) equal to 50 percent of the total amounts expended by such State during such quarter for the operation of a plan which meets the conditions of section 454 except as is provided by a waiver by the Secretary which is granted pursuant to specific authority set forth in the law;

except that no amount shall be paid to any State on account of furnishing child support collection or paternity determination services

(other than the parent locator services) to individuals under section 454(6) during any period beginning after June 30, [1976] 1977.

(b) (1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

* * * * *

TITLE XVI—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED, OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED

PART B—PROCEDURAL AND GENERAL PROVISIONS

PAYMENTS AND PROCEDURES

Payment of Benefits

SEC. 1631. (a) (1) * * *

* * * * *

Reimbursement to States for Interim Assistance Payments

(g) (1) Notwithstanding subsection (d) (1) and subsection (b) as it relates to the payment of less than the correct amount of benefits, the Secretary may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Secretary and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished on behalf of the individual by the State (or political division).

(2) For purposes of this subsection, the term "benefits" with respect to any individual means supplemental security income benefits under this title, and any State supplementary payments under section 1616 or under section 212 of Public Law 93-66 which the Secretary makes on behalf of a State (or political subdivision thereof), that the Secretary has determined to be due with respect to the individual at the

time the Secretary makes the first payment of benefits. A cash advance made pursuant to subsection (a) (4) (A) shall not be considered as the first payment of benefits for purposes of the preceding sentence.

(3) For purposes of this subsection, the term "interim assistance" with respect to any individual means assistance financed from State or local funds and furnished for meeting basic needs during the period, beginning with the month in which the individual filed an application for benefits (as defined in paragraph (2)), for which he was eligible for such benefits.

(4) In order for a State to receive reimbursement under the provisions of paragraph (1), the State shall have in effect an agreement with the Secretary which shall provide—

(A) that if the Secretary makes payment to the State (or a political subdivision of the State as provided for under the agreement) in reimbursement for interim assistance (as defined in paragraph (3)) for any individual in an amount greater than the reimbursable amount authorized by paragraph (1), the State (or political subdivision) shall pay to the individual the balance of such payment in excess of the reimbursable amount as expeditiously as possible, but in any event within ten working days or a shorter period specified in the agreement; and

(B) that the State will comply with such other rules as the Secretary finds necessary to achieve efficient and effective administration of this subsection and to carry out the purposes of the program established by this title, including protection of hearing rights for any individual aggrieved by action taken by the State (or political subdivision) pursuant to this subsection.

(5) The provisions of subsection (c) shall not be applicable to any disagreement concerning payment by the Secretary to a State pursuant to the preceding provisions of this subsection nor the amount retained by the State (or political subdivision).

[(6) The provisions of this subsection shall expire on June 30, 1976. At least sixty days prior to such expiration date, the Secretary shall submit to Congress a report assessing the effects of actions taken pursuant to this subsection, including the adequacy of interim assistance provided and the efficiency and effectiveness of the administration of such provisions. Such report may include such recommendations as the Secretary deems appropriate.]

* * * * *

SECTION 8 OF PUBLIC LAW 93-233

AN ACT To provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes.

* * * * *

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS

SEC. 8. (a)(1) Section 3(e) of the Food Stamp Act of 1964 is amended effective only for [the 30-month period beginning January 1,

1974] *the period ending June 30, 1977* to read as it did before amendment by Public Law 92-603 and Public Law 93-86, but with the addition of the following new sentence at the end thereof: "For [the 30-month period beginning January 1, 1974] *the period ending June 30, 1977* no individual, who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93-66, shall be considered to be a member of a household or an elderly person for purposes of this Act for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act, and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps."

(2) Section 3(b) of Public Law 93-86 shall not be effective for the [30-month period beginning January 1, 1974] *period ending June 30, 1977*.

(b)(1) Section 4(c) of Public Law 93-86 shall not be effective for [the 30-month period beginning January 1, 1974] *the period ending June 30, 1977*.

(2) The last sentence of section 416 of the Act of October 31, 1949 (as added by section 411(g) of Public Law 92-603) shall not be effective for [the 30-month period beginning January 1, 1974] *the period ending June 30, 1977*.

(3) For [the 30-month period beginning January 1, 1974] *the period ending June 30, 1977*, no individual, who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93-66, shall be considered to be a member of a household for any purpose of the food distribution program for families under section 32 of Public Law 74-320, section 416 of the Agricultural Act of 1949, or any other law, for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act, and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

(c) For purposes of the last sentence of section 3(e) of the Food Stamp Act of 1964 (as amended by subsection (a) of this section) and subsections (b)(3) and (f) of this section, the level of State supplementary payment under section 1616(a) shall be found by the Secretary to have been specifically increased so as to include the bonus value of food stamps (1) only if, prior to October 1, 1973, the State has entered into an agreement with the Secretary or taken other positive steps which demonstrate its intention to provide supplementary payments under section 1616(a) at a level which is at least equal to the maximum level which can be determined under section 401(b)(1) of the Social Security Amendments of 1972 and which is such that the limitation on State fiscal liability under section 401 does result in a reduction in the amount which would otherwise be payable to the

Secretary by the State, and (2) only with respect to such months as the State may, at its option, elect.

(d) Section 401(b)(1) of the Social Security Amendments of 1972 is amended by striking out everything after the word "exceed" and inserting in lieu thereof: "a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plans."

(e) The amendment made by subsection (d) shall be effective only for [the 30-month period beginning January 1, 1974] *the period ending June 30, 1977*, except that such amendment shall not during such period, be effective in any State which provides supplementary payments of the type described in section 1616(a) of the Social Security Act the level of which has been found by the Secretary to have been specifically increased so as to include the bonus value of food stamps.



Public Law 94-368 (H.R. 13501),
July 16, 1976, An Act to extend
or remove certain time limitations
and make other administrative
improvements in the Medicare
program under title XVIII of the
Social Security Act.



Public Law 94-368
94th Congress, H. R. 13501
July 16, 1976

An Act

To extend or remove certain time limitations and make other administrative improvements in the medicare program under title XVIII of the Social Security Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15(d) of Public Law 93-233 (as amended by section 7(c) of Public Law 93-368) is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977".

SEC. 2. The last sentence of section 1842(b)(3) of the Social Security Act is amended by striking out "for the fiscal year beginning July 1, 1975," and inserting in lieu thereof "for the twelve-month period beginning on July 1 in any calendar year after 1974".

SEC. 3. (a) The third sentence of section 1842(b)(3) of the Social Security Act is amended by striking out "prior to the start of the fiscal year in which the bill is submitted or the request for payment is made" in clause (ii) and inserting in lieu thereof "prior to the start of the twelve-month period (beginning July 1 of each year) in which the bill is submitted or the request for payment is made".

(b) The fourth sentence of section 1842(b)(3) of such Act is amended by striking out "for any fiscal year beginning after June 30, 1973," and inserting in lieu thereof "for any twelve-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence".

(c) Section 204(7) of the Fiscal Year Transition Act is amended by striking out the reference to section 1842(b)(3) of the Social Security Act.

SEC. 4. The amendments made by sections 2 and 3 of this Act shall be effective with respect to periods beginning after June 30, 1976; except that, for the twelve-month period beginning July 1, 1976, the amendments made by section 3 shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act (after June 30, 1976, and before July 1, 1977) with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made pursuant to such section 3 in the prevailing charge levels for such twelve-month period under the third and fourth sentences of section 1842(b)(3) of the Social Security Act.

Approved July 16, 1976.

Medicare
program.
Extension.
42 USC 1395x
note.
42 USC 1395u.

7 USC 390e
note.

Effective dates.
42 USC 1395u
note.

42 USC 1395j.

42 USC 1395u.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1114 (Comm. on Ways and Means).

SENATE REPORT No. 94-993 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 13, considered and passed House.

June 30, considered and passed Senate, amended.

July 1, House disagreed to Senate amendments; Senate
receded from its amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 30:
July 19, Presidential statement.

Report of the Committee on
Ways and Means, to accompany
H.R. 13501, House of
Representatives Report No.
94-11114.

MEDICARE EXTENSION AMENDMENTS

MAY 10, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means,
submitted the following

REPORT

(Including cost estimate and comparison of the Congressional
Budget Office)

[To accompany H.R. 13501]

The Committee on Ways and Means, to whom was referred the bill (H.R. 13501) to extend or remove certain time limitations and make other administrative improvements in the medicare program under title XVIII of the Social Security Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. PURPOSE AND BACKGROUND OF THE BILL

Your committee's bill would make three relatively minor changes in the medicare law that must take effect by July 1, 1976, in order to avoid certain adverse effects on medicare beneficiaries and health care providers. In brief, these changes would (a) provide needed additional time during which the Congress can determine an appropriate policy regarding medicare reimbursement for the services of physicians in teaching hospitals; (b) avoid the rollback below fiscal year 1975 levels, of "prevailing charges" (used in determining medicare reimbursement for physicians' services); and (c) continue the practice, which the medicare program has followed since its inception, of updating "customary" and "prevailing" charges (used in determining physician reimbursement) each year as of July 1.

Your committee recommends these minor, but necessary, amendments at this time to modify the effect of medicare changes that would otherwise occur as of July 1 of this year.

II. GENERAL STATEMENT

A. REIMBURSEMENT FOR SERVICES OF PHYSICIANS PROVIDED IN TEACHING HOSPITALS

When medicare was enacted, the general expectation reflected in the law was that the patient care services of physicians would be reimbursed under part B of medicare (supplementary medical insurance) on the basis of reasonable charges. Hospital costs, including salaries of interns and residents, as well as supervising physicians participating in educational programs in the hospital, were to be reimbursed under part A of medicare (hospital insurance) on a reasonable cost basis.

These distinctions, however, are not easily made with respect to the actual services and responsibilities in a teaching hospital, where teaching and patient care are often inseparable. The original medicare law did not address the specific issue of how medicare should determine reimbursement for the services of a physician when he supervises interns and residents in the care of patients.

This ambiguity led in practice to a variety of arrangements for reimbursing the services of physicians in teaching hospitals. Out of concern about the lack of uniformity in these arrangements, the Congress included a provision (section 227) in the 1972 social security amendments (Public Law 92-603) that was intended to simplify payment problems.

Adoption of this provision, however, brought forth expressions of serious concern from the medical education community about whether the legislation in fact established a workable and equitable reimbursement policy for the teaching hospital setting. Thereafter, and before section 227 was implemented, the Congress adopted legislation (P.L. 92-233) calling for a thorough study of the issue by the National Academy of Sciences. Pending completion of the study, section 227 of Public Law 92-603 was suspended (until July 1, 1976).

The congressionally chartered study by the National Academy of Sciences was presented to your committee on March 1, 1976. There has not been sufficient time since then to consider the results of the study and develop appropriate legislation. However, the reimbursement method for services of teaching physicians mandated in the 1972 amendments will become effective beginning July 1, 1976, in the absence of any legislative action. Since your committee plans to fully reexamine the entire issue of reimbursement of teaching physicians in light of the study by the National Academy, the bill would postpone the effective date of the 1972 reimbursement provision until October 1, 1977. This would allow your committee the time necessary to give full consideration to the study's findings and recommendations relating to alternative methods of reimbursement for services of physicians in teaching hospitals.

B. ELIMINATION OF ROLLBACKS IN PREVAILING CHARGES DUE TO APPLICATION OF THE ECONOMIC INDEX

The Social Security Amendments of 1972 (Public Law 92-603) included several provisions designed to control the escalating costs of

the medicare program. Among these was a provision limiting the rate at which "prevailing charges" (the ceilings on what the medicare program will recognize as reasonable charges for physicians' services) can increase from year to year.

Under this provision, the prevailing charges recognized in fiscal year 1973 for a locality were allowed to increase in fiscal year 1974, and in later years, only to the extent justified by indices reflecting changes in operating expenses of physicians and in general earnings levels. The statistical methods used to calculate the limit on increases allowed by the provision were to be established by the Secretary of Health, Education, and Welfare.

The application of the index in the fiscal year beginning July 1, 1975 had one completely unintended effect. In some cases, the index caused fiscal year 1976 prevailing charges to be rolled back below fiscal year 1975 prevailing charge levels. Out of concern that this reduction in the ceiling on medicare payments would have an adverse effect on beneficiaries, your committee recommended legislation to assure that operation of the economic index during fiscal year 1976 would not result in lower prevailing charges for physicians' services than during fiscal year 1976. This legislation was enacted into law on December 31, 1975 (Public Law 94-182).

It has come to the attention of your committee, however, that, in the absence of legislation, application of the economic index in periods after fiscal year 1976 will once again have a rollback effect—reducing some prevailing charges to levels below what they were in fiscal year 1975. Although the total effects of the rollback in the next 12 months will be less than in the prior fiscal year (and will in the future totally disappear), it is nevertheless an unintended and adverse effect, and should not be allowed to take place. Your committee's bill would, therefore, change the law to eliminate the future possibility of rollbacks in prevailing charges due to application of the economic index.

C. UPDATING OF CUSTOMARY AND PREVAILING CHARGES

Under present medicare law, "customary" and "prevailing" charges (used to determine the medicare reasonable charge for a physician's service) are updated at the beginning of every fiscal year. In years prior to 1976, this meant that charges were updated every July 1, with the update based on actual charges made by physicians in the preceding calendar year.

Under the Congressional Budget and Impoundment Control Act of 1974, the beginning of the governmental fiscal year is moved from July 1 to October 1. A consequence for the medicare program is that the updating of customary and prevailing charges will henceforth take place each year as of October 1 rather than July 1, because existing medicare law calls for such updating to occur at the beginning of each fiscal year. Thus, without a change in the law, in 1976 and every year thereafter, medicare will delay for three additional months the recognition of fee increases that have occurred during the preceding calendar year. The effect is to make medicare reimbursement amounts for physicians' services less adequate than today—at a time when many physicians and beneficiaries already believe that medicare delays too long in recognizing increases in fees.

It is the primary concern of your committee that this additional 3-month lag would have a direct adverse effect on beneficiaries. Even fewer physicians than today would be willing to accept assignment of claims—with the result that additional beneficiaries would have to pay out of their own pockets the increased difference between the medicare allowance and the actual charge of the physician.

Your committee's bill would, therefore, maintain the July 1 date for revising prevailing and customary charges, irrespective of the overall change in the Federal Government's fiscal year.

III. COST OF CARRYING OUT THE BILL AND EFFECT ON THE REVENUES

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made:

Section 1 of your committee's bill postpones for 15 months the effective date of the reimbursement methods for teaching physicians mandated in section 227 of Public Law 92-603. The President's budget made no assumption that section 227 would go into effect on July 1, 1976. The Administration estimates, however, that if section 227 were allowed to go into effect on July 1, 1976, additional medicare expenditures would be incurred. The estimated additional expenditures are shown below:

Medicare expenditures—additional expenditures resulting from reimbursement methods under section 227 of Public Law 92-603

Fiscal years:	Millions
Transitional fiscal period (July 1, 1976, through Sept. 30, 1976) -----	(1)
1977 -----	\$5
1978 -----	6
1979 -----	7
1980 -----	8
1981 -----	9

¹ Less than \$1 million.

It should be emphasized that enactment of this provision of your committee's bill would have no effect on the outlays shown in the President's budget for the existing medicare program. Failure to enact this or any other provision (thus permitting the provisions of existing law to take effect) would increase budgeted program outlays by the amount shown above.

Section 2 of the bill assures that application of the economic index (as required by Public Law 92-603) will never result in the determination of prevailing charges which are lower than such charges determined for fiscal year 1975. The Administration estimates that if the rollback of prevailing charges were allowed to take place, the resulting savings to the medicare program would amount to \$3 million in the transitional fiscal period, \$7 million in fiscal year 1977, less than \$1 million in fiscal year 1978, and negligible amounts beginning in fiscal year 1979, declining eventually to zero.

However, in determining total medicare expenditures under existing law, the President's budget did not assume that there would be any rollback in prevailing charges. Thus, adoption of this provision of the bill would not affect the amounts already shown in the budget for the existing medicare program.

Section 3 of the bill provides that, regardless of the change in the Federal Government's fiscal year, medicare's customary and prevail-

ing charges will continue to be updated every July 1. To allow the three-month delay in recognition of increases in physicians' fees to occur would result in a reduction in program expenditures. The estimated reductions are as follows:

Medicare expenditures—reduction in outlays resulting from additional delay in updating customary and prevailing charges

Fiscal years:

Transitional fiscal period (July 1, 1976 through Sept. 30, 1977)-----	\$91
1977 -----	62
1978 -----	67
1979 -----	76
1980 -----	73
1981 -----	66

However, the President's budget as sent to Congress did not assume that customary and prevailing charges would henceforth be updated as of October 1 (rather than July 1) of each year. Thus, adoption of this provision of the bill would not affect the amounts already shown in the budget for the existing medicare program.

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the statement relative to the estimated costs of carrying out the bill furnished to your committee by the Director of the Congressional Budget Office follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 6, 1976.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 13501, the Medicare Extension Amendments.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 13501.
2. Bill title: Medicare Extension Amendments.
3. Purposes of the bill: To extend provisions in the Medicare statute (Title XVIII of the Social Security Act) related to the avoidance of roll backs in charges due to the economic index, the maintenance of the July 1 updating of the charge screen, and the reimbursement of teaching physicians.
4. Cost estimate: No budgetary impact.
5. Basis for estimate: The provisions in this bill extend current law. Since CBO projections for the costs of the Medicare program are

based upon current policy, H.R. 13501 would make no change in those projections.

6. Estimate comparison: The Social Security Administration has also indicated that these provisions would have no impact on their current services projections for medicare outlays.

7. Previous CBO estimate: Not applicable.

8. Estimate prepared by: Jeffrey C. Merrill (225-4972).

9. Estimate approved by: C. G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

IV. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill. The bill was unanimously ordered favorably reported by your committee.

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As the result of its continuing examination of the operation of the medicare program, your committee has concluded that certain changes that would occur in the program under existing law should not take place; accordingly, the bill instead extends into the future several arrangements under which the program currently operates.

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, your committee states that the changes made in present law by this bill involve no new budgetary authority or new or increased tax expenditures.

With respect to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, your committee advises that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, your committee states that the three changes made under this bill would not have an inflationary impact on prices and costs in the operation of the national economy. All three sections would merely extend certain existing medicare arrangements.

V. SECTION-BY-SECTION ANALYSIS AND JURISDICTION OF THE BILL

SECTION 1. REIMBURSEMENT FOR SERVICES OF PHYSICIANS PROVIDED IN TEACHING HOSPITALS

Analysis

Section 1 would postpone the effective date of the reimbursement methods for services of physicians in teaching hospitals called for under section 227 of the 1972 social security amendments (Public Law 92-603) from July 1, 1976, to October 1, 1977 (i.e., cost-accounting periods beginning after September 30, 1977).

Justification

Before section 227 was implemented, Public Law 93-233 (December 31, 1973) authorized the Institute of Medicine of the National

Academy of Sciences to undertake a detailed study of the issues in teaching physician reimbursement and postponed the effective date of section 227. The completed study was submitted to the Committee on Ways and Means in March, 1976. The further extension of the effective date of the reimbursement provision would allow the time necessary for the committee to consider the study and determine whether an alternative approach to teaching physician reimbursement would be preferable.

SECTION 2. ELIMINATION OF ROLLBACKS IN PREVAILING CHARGES DUE TO APPLICATION OF THE ECONOMIC INDEX

Analysis

Section 2 would assure that operation of the economic index (applied pursuant to the 1972 social security amendments—Public Law 92-603) will never result in determination of prevailing charges for physician services that are lower than they were in fiscal year 1975.

Justification

It was never intended that application of the economic index in fiscal year 1976 (when the index was first applied) should have the effect of rolling back prevailing charges below their fiscal year 1975 levels. A rollback did, however, occur in fiscal year 1976 but was corrected by enactment of Public Law 94-182. To avoid the occurrence of such rollbacks again, the bill would modify the law to assure that in no future period will the economic index result in prevailing charges lower than were determined for fiscal year 1975.

SECTION 3. UPDATING OF CUSTOMARY AND PREVAILING CHARGES

Analysis.

Section 3 would assure that customary and prevailing charges continue to be updated every July 1, even though the beginning of the Federal Government's fiscal year is changed to October 1.

Justification

To allow the change in the fiscal year to apply to the updating of customary and prevailing charges would result in an additional 3-month delay in recognizing increases in physicians' fees at a time when many physicians and beneficiaries already believe medicare delays too long in recognizing increases. Of primary concern is that this delay would have an adverse effect on beneficiaries. Even fewer physicians than today would be willing to accept assignment of claims—with the result that additional beneficiaries would have to pay out of their own pockets the increased difference between the medicare allowance and the actual charge of the physician.

SECTION 4. EFFECTIVE DATES

Analysis.

Section 4 provides that section 2 (elimination of a rollback in prevailing charges due to application of the economic index) and section 3 (updating of customary and prevailing charges) will become effective July 1, 1976; except that, for the 12-month period beginning July 1, 1976, the requirements of section 2 will be effective with respect to

claims filed with carriers after the carriers have updated the customary and prevailing charges pursuant to section 3.

Justification

July 1, 1976 is the date on which the existing medicare law would have called for customary and prevailing charges to be updated if the Federal Government's fiscal year had not been changed, and section 3 of the bill restores that date. A previously enacted medicare amendment assured that for fiscal year 1976, no prevailing charges would be determined to be lower than they were in fiscal year 1975 (due to application of the economic index). For periods after fiscal year 1976, the effective date of section 2 results in the same assurance, keyed to the updating of prevailing charges by medicare carriers.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

SECTION 15 OF PUBLIC LAW 93-233

To provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes -

* * * * *

PAYMENT FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL

SEC. 15. (a) (1) * * *

* * * * *

(d) The provisions of subsection (a) shall apply with respect to cost accounting periods beginning after June 30, 1973, and prior to [July 1, 1976] *October 1, 1977.*

SECTION 1824 OF THE SOCIAL SECURITY ACT

USE OF CARRIERS FOR ADMINISTRATION OF BENEFITS

SEC. 1842. (a) * * *

(b) (1) * * *

* * * * *

(3) Each such contract shall provide that the carrier—

(A) will take such action as may be necessary to assure that, where payment under this part for a service is on a cost basis, the cost is reasonable cost (as determined under section 1861(v));

(B) will take such action as may be necessary to assure that, where payment under this part for a service is on a charge basis, such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable cir-

cumstances, to the policyholders and subscribers of the carrier, and such payment will (except as otherwise provided in section 1870(f)) be made—

(i) on the basis of an itemized bill; or

(ii) on the basis of an assignment under the terms of which (I) the reasonable charge is the full charge for the service (except in the case of physicians' services and ambulance service furnished as described in section 1862(a)(4), other than for purposes of section 1870(f) and (II) the physician or other person furnishing such service agrees not to charge for such service if payment may not be made therefor by reason of the provisions of paragraph (1) of section 1862, and if the individual to whom such service was furnished was without fault in incurring the expenses of such service, and if the Secretary's determination that payment (pursuant to such assignment) was incorrect and was made subsequent to the third year following the year in which notice of such payment was sent to such individual: except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title:

but (in the case of bills submitted, or requests for payment made, after March 1968) only if the bill is submitted, or a written request for payment is made in such other form as may be permitted under regulations, no later than the close of the calendar year following the year in which such service is furnished (deeming any service furnished in the last 3 months of any calendar year to have been furnished in the succeeding calendar year);

(C) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the carrier, in any case where the amount in controversy is \$100 or more when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness or when the amount of such payment is in controversy;

(D) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part; and

(E) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part;

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

No charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (i) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar

services in the same locality in administering this part on December 31, 1970, or (ii) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the [fiscal year] *12-month period (beginning July 1 of each year)* in which the bill is submitted or the request for payment is made. In the case of physician services the prevailing charge level determined for purposes of clause (ii) of the preceding sentence for any [fiscal year beginning after June 30, 1973.] *12-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence* may not exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economics index data, that such higher level is justified by economic changes. In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under the circumstances specified by the Secretary. The requirement in subparagraph (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected. Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the [fiscal year beginning July 1, 1975.] *12-month period beginning on July 1 in any calendar year after 1974* shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

* * * * *

SECTION 204 OF THE FISCAL YEAR TRANSITION ACT

AN ACT To provide for the orderly transaction to the new October 1 to September 30 fiscal year

* * * * *

SEC. 204. The period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning July 1, 1975, for the purposes of the following provisions of law:

(1) * * *

* * * * *

- (7) the following provisions of the Social Security Act:
 section 201(c) (42 U.S.C. 401(c));
 sections 403 (c) and (f) (42 U.S.C. 603 (c) and (f));
 section 423(c) (42 U.S.C. 623(c));
 section 1118 (42 U.S.C. 1318);
 section 1817(b) (42 U.S.C. 1395i(b));
 section 1841(b) (42 U.S.C. 1395t(b));
【section 1842(b)(3) (42 U.S.C. 1395u(b)(3));】

* * * * *

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Report of the Committee on
Finance, to accompany
H.R. 13501, Senate Report
No. 94-993.

MEDICARE EXTENSION AMENDMENTS

JUNE 25 (legislative day, JUNE 18), 1976.—Ordered to be printed

Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 13501]

The Committee on Finance, to which was referred the bill (H.R. 13501) to extend or remove certain time limitations and make other administrative improvements in the medicare program under title XVIII of the Social Security Act, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

I. SUMMARY OF THE BILL

The bill would make three relatively minor changes in the medicare law that must take effect by July 1, 1976, in order to avoid certain adverse effects on medicare beneficiaries and health care providers. In brief, these changes would (a) provide needed additional time during which the Congress can determine an appropriate policy regarding medicare reimbursement for the services of physicians in teaching hospitals; (b) avoid the rollback below fiscal year 1975 levels, of "prevailing charges" (used in determining medicare reimbursement for physicians' services); and (c) continue the practice, which the medicare program has followed since its inception, of updating "customary" and "prevailing" charges (used in determining physician reimbursement) each year as of July 1.

The committee recommends these minor, but necessary, amendments at this time to modify the effect of medicare changes that would otherwise occur as of July 1 of this year.

In addition, the committee bill would authorize the Secretary of Health, Education, and Welfare to make adjustments in medicare nursing home reimbursement in certain areas of the country—such as Alaska—with unusually high cost levels.

II. GENERAL EXPLANATION OF THE BILL

A. REIMBURSEMENT FOR SERVICES OF PHYSICIANS PROVIDED IN TEACHING HOSPITALS

When medicare was enacted, the general expectation reflected in the law was that the patient care services of physicians would be reimbursed under part B of medicare (supplementary medical insurance) on the basis of reasonable charges. Hospital costs, including salaries of interns and residents, as well as supervising physicians participating in educational program in the hospital, were to be reimbursed under part A of medicare (hospital insurance) on a reasonable cost basis.

These distinctions, however, are not easily made with respect to the actual services and responsibilities in a teaching hospital, where teaching and patient care are often inseparable. The original medicare law did not address the specific issue of how medicare should determine reimbursement for the services of a physician when he supervises interns and residents in the care of patients.

This ambiguity led in practice to a variety of arrangements for reimbursing the services of physicians in teaching hospitals. Out of concern about the lack of uniformity in these arrangements, the Congress included a provision (section 227) in the 1972 social security amendments (Public Law 92-603) that was intended to simplify payment problems.

Adoption of this provision, however, brought forth expressions of serious concern from the medical education community about whether the legislation in fact established a workable and equitable reimbursement policy for the teaching hospital setting. Thereafter, and before section 227 was implemented, the Congress adopted legislation (P.L. 92-233) calling for a thorough study of the issue by the National Academy of Sciences. Pending completion of the study, section 227 of Public Law 92-603 was suspended (until July 1, 1976).

The congressionally chartered study by the National Academy of Sciences was submitted on March 1, 1976. There has not been sufficient time since then to consider the results of the study and develop appropriate legislation. However, the reimbursement method for services of teaching physicians mandated in the 1972 amendments will become effective beginning July 1, 1976, in the absence of any legislative action. Since the Committee on Ways and Means and the Committee on Finance plan to fully reexamine the entire issue of reimbursement of teaching physicians in light of the study by the National Academy, the bill would postpone the effective date of the 1972 reimbursement provision until October 1, 1977. This would allow the time necessary to give full consideration to the study's findings and recommendations relating to alternative methods of reimbursement for services of physicians in teaching hospitals.

B. ELIMINATION OF ROLLBACKS IN PREVAILING CHARGES DUE TO APPLICATION OF THE ECONOMIC INDEX

The Social Security Amendments of 1972 (Public Law 92-603) included several provisions designed to control the escalating costs of

the medicare program. Among these was a provision limiting the rate at which "prevailing charges" (the ceilings on what the medicare program will recognize as reasonable charges for physicians' services) can increase from year to year.

Under this provision, the prevailing charges recognized in fiscal year 1973 for a locality were allowed to increase in fiscal year 1974, and in later years, only to the extent justified by indices reflecting changes in operating expenses of physicians and in general earnings levels. The statistical methods used to calculate the limit on increases allowed by the provision were to be established by the Secretary of Health, Education, and Welfare.

The application of the index in the fiscal year beginning July 1, 1975 had one completely unintended effect. In some cases, the index caused fiscal year 1976 prevailing charges to be rolled back below fiscal year 1975 prevailing charge levels. Out of concern that this reduction in the ceiling on medicare payments would have an adverse effect on beneficiaries, the committee recommended legislation to assure that operation of the economic index during fiscal year 1976 would not result in lower prevailing charges for physicians' services than during fiscal year 1976. This legislation was enacted into law on December 31, 1975 (Public Law 94-182).

However, in the absence of further legislation, application of the economic index in periods after fiscal year 1976 will once again have a rollback effect—reducing some prevailing charges to levels below what they were in fiscal year 1975. Although the total effects of the rollback in the next 12 months will be less than in the prior fiscal year (and will in the future totally disappear), it is nevertheless an unintended and adverse effect, and should not be allowed to take place. The bill would, therefore, change the law to eliminate the future possibility of rollbacks in prevailing charges due to application of the economic index.

C. UPDATING OF CUSTOMARY AND PREVAILING CHARGES

Under present medicare law, "customary" and "prevailing" charges (used to determine the medicare reasonable charge for a physician's service) are updated at the beginning of every fiscal year. In years prior to 1976, this meant that charges were updated every July 1, with the update based on actual charges made by physicians in the preceding calendar year.

Under the Congressional Budget and Impoundment Control Act of 1974, the beginning of the governmental fiscal year is moved from July 1 to October 1. A consequence for the medicare program is that the updating of customary and prevailing charges will henceforth take place each year as of October 1 rather than July 1, because existing medicare law calls for such updating to occur at the beginning of each fiscal year. Thus, without a change in the law, in 1976 and every year thereafter, medicare will delay for three additional months the recognition of fee increases that have occurred during the preceding calendar year. The effect is to make medicare reimbursement amounts for physicians' services less adequate than today—at a time when many physicians and beneficiaries already believe that medicare delays too long in recognizing increases in fees.

D. ADJUSTMENT IN MEDICARE REIMBURSEMENT IN UNUSUALLY HIGH COST GEOGRAPHIC AREAS

The committee is concerned that present methods for determining reasonable costs reimbursement for nursing home care under Medicare may be inadequate in Alaska because of the unusually high cost levels prevailing in that State. The effect of any significant inadequacies in payment may be to discourage the provision and availability of necessary care for medicare patients. The committee has, therefore, included an amendment authorizing the Secretary of HEW to increase reimbursement for skilled nursing facility care in Alaska if he finds present payment levels and procedures inadequate or inequitable. Any adjustments which the Secretary might find appropriate would be applicable for care provided in skilled nursing facilities which currently participate in or which previously participated in the medicare program.

It is the concern of the committee that this additional 3-month lag would have a direct adverse effect on beneficiaries. Even fewer physicians than today would be willing to accept assignment of claims—with the result that additional beneficiaries would have to pay out of their own pockets the increased difference between the medicare allowance and the actual charge of the physician.

The bill would, therefore, maintain the July 1 date for revising prevailing and customary charges, irrespective of the overall change in the Federal Government's fiscal year.

III. BUDGETARY IMPACT OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and section 308 of the Congressional Budget Act of 1974, the following statements are made with respect to budgetary impact:

Section 1 of the bill postpones for 15 months the effective date of the reimbursement methods for teaching physicians mandated in section 227 of Public Law 92-603. The President's budget made no assumption that section 227 would go into effect on July 1, 1976. The Administration estimates, however, that if section 227 were allowed to go into effect on July 1, 1976, additional medicare expenditures would be incurred. The estimated additional expenditures are shown below:

Medicare expenditures—additional expenditures resulting from reimbursement methods under section 227 of Public Law 92-603

Fiscal years:	Millions
Transitional fiscal period (July 1, 1976, through Sept. 30, 1976)-----	(¹)
1977 -----	\$5
1978 -----	6
1979 -----	7
1980 -----	8
1981 -----	9

¹ Less than \$1,000,000.

It should be emphasized that enactment of this provision of the bill would have no effect on the outlays shown in the President's budget for the existing medicare program. Failure to enact this or any other provision (thus permitting the provisions of existing law to take effect) would increase budgeted program outlays by the amount shown above.

Section 2 of the bill assures that application of the economic index (as required by Public Law 92-603) will never result in the determination or prevailing charges which are lower than such charges determined for fiscal year 1975. The Administration estimates that if the rollback of prevailing charges were allowed to take place, the resulting savings to the medicare program would amount to \$3 million in the transitional fiscal period, \$7 million in fiscal year 1977, less than \$1 million in fiscal year 1978, and negligible amounts beginning in fiscal year 1979, declining eventually to zero.

However, in determining total medicare expenditures under existing law, the President's budget did not assume that there would be any rollback in prevailing charges. Thus, adoption of this provision of the bill would not affect the amounts already shown in the budget for the existing medicare program.

Section 3 of the bill provides that, regardless of the change in the Federal Government's fiscal year, medicare's customary and prevailing charges will continue to be updated every July 1. To allow the three-month delay in recognition of increases in physicians' fees to occur would result in a reduction in program expenditures. The estimated reductions are as follows:

Medicare expenditures—reduction in outlays resulting from additional delay in updating customary and prevailing charges

Fiscal years:

Transitional fiscal period (July 1, 1976 through Sept. 30, 1977) -----	\$91
1977 -----	62
1978 -----	67
1979 -----	76
1980 -----	73
1981 -----	66

However, the President's budget as sent to Congress did not assume that customary and prevailing charges would henceforth be updated as of October 1 (rather than July 1) of each year. Thus, adoption of this provision of the bill would not affect the amounts already shown in the budget for the existing medicare program.

The statement relative to the estimated costs of carrying out the bill furnished by the Director of the Congressional Budget Office follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 6, 1976.

HON. AL ULLMAN,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 13501, the Medicare Extension Amendments.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 13501.
2. Bill title: Medicare Extension Amendments.
3. Purposes of the bill: To extend provisions in the Medicare statute (Title XVIII of the Social Security Act) related to the avoidance of roll backs in charges due to the economic index, the maintenance of the July 1 updating of the charge screen, and the reimbursement of teaching physicians.
4. Cost estimate: No budgetary impact.
5. Basis for estimate: The provisions in this bill extend current law. Since CBO projections for the costs of the Medicare program are based upon current policy, H.R. 13501 would make no change in those projections.
6. Estimate comparison: The Social Security Administration has also indicated that these provisions would have no impact on their current services projections for medicare outlays.
7. Previous CBO estimate: Not applicable.
8. Estimate prepared by: Jeffrey C. Merrill (225-4972).
9. Estimate approved by: C. G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

IV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946 the following statement is made relative to the vote by the committee on the motion to report the bill. The bill was ordered reported by voice vote.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 15 OF PUBLIC LAW 93-233

To provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes

* * * * *

PAYMENT FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING
HOSPITAL

SEC. 15. (a) (1) * * *

* * * * *

(d) The provisions of subsection (a) shall apply with respect to cost accounting periods beginning after June 30, 1973, and prior to [July 1, 1976] *October 1, 1977*.

EXCERPTS FROM THE SOCIAL SECURITY ACT

USE OF CARRIERS FOR ADMINISTRATION OF BENEFITS

SEC. 1842. (a) * * *

(b) (1) * * *

* * * * *

(3) Each such contract shall provide that the carrier—

(A) will take such action as may be necessary to assure that, where payment under this part for a service is on a cost basis, the cost is reasonable cost (as determined under section 1861(v));

(B) will take such action as may be necessary to assure that, where payment under this part for a service is on a charge basis, such charge will be reasonable and not higher than the charge applicable for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier, and such payment will (except as otherwise provided in section 1870(f)) be made—

(i) on the basis of an itemized bill; or

(ii) on the basis of an assignment under the terms of which (I) the reasonable charge is the full charge for the service (except in the case of physicians' services and ambulance service furnished as described in section 1862(a) (4), other than for purposes of section 1870(f) and (II) the physician or other person furnishing such service agrees not to charge for such service if payment may not be made therefor by reason of the provisions of paragraph (1) of section 1862, and if the individual to whom such service was furnished was without fault in incurring the expenses of such service, and if the Secretary's determination that payment (pursuant to such assignment) was incorrect and was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title;

but (in the case of bills submitted, or requests for payment made, after March 1968) only if the bill is submitted, or a written request for payment is made in such other form as may be permitted under regulations, no later than the close of the calendar year following the year in which such service is furnished (deeming any service furnished in the last 3 months of any calendar year to have been furnished in the succeeding calendar year);

(C) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the carrier, in any case where the amount in controversy is \$100 or more when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness or when the amount of such payment is in controversy;

(D) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part; and

(E) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part;

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

No charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (i) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (ii) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the *["fiscal year"] 12-month period (beginning July 1 of each year)* in which the bill is submitted or the request for payment is made. In the case of physician services the prevailing charge level determined for purposes of clause (ii) of the preceding sentence for any *["fiscal year beginning after June 30, 1973."] 12-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence* may not exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economics index data, that such higher level is justified by economic changes. In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under the circumstances specified by the Secretary. The requirement in subparagraph (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected. Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the

case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the fiscal year beginning July 1, 1975, 12-month period beginning on July 1 in any calendar year after 1974 shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

*	*	*	*	*	*	*
Sec. 1861 (a)	***					
*	*	*	*	*	*	*
(v) (1) (A)	***					
*	*	*	*	*	*	*

(F) *The Secretary of Health, Education, and Welfare in the administration of the health insurance program established by title XVIII of the Social Security Act may, establish special criteria for purposes of determining the reasonable cost incurred by a skilled nursing facility for services for which payment is authorized under either such title, if—*

(1) *such skilled nursing facility is located in an area characterized by unusually higher cost levels (as compared to other areas in the United States),*

(2) *such facility is experiencing financial adversity due in substantial part to such unusually higher cost levels,*

(3) *an increase in reimbursement to such facility, for services performed by it for patients covered under the program established by such title XVIII would enable such facility to continue in operation, and*

(4) *such facility was a provider of services on or before July 1, 1976, which special criteria shall be designed to increase the amounts otherwise payable to such facility, under such title XVIII to the extent necessary more fully to take into account the unusually higher costs incurred by such facility and the impact of such higher costs on the cost which such facility would incur in necessary replacement of items and facilities utilized by it in carrying out its functions.*

(b) *The special criteria referred to in subsection (a) shall be applicable to a skilled nursing facility only during a period with respect to which such facility meets the conditions specified in paragraphs (1), (2), (3) and (4) of such subsection.*

SECTION 204 OF THE FISCAL YEAR TRANSITION ACT

AN ACT To provide for the orderly transaction to the new October 1 to September 30 fiscal year

*	*	*	*	*	*	*
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Sec. 204. The period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning July 1, 1975, for the purposes of the following provisions of law:

(1) * * *

* * * * *

(7) the following provisions of the Social Security Act:

section 201(c) (42 U.S.C. 401(c));
 section 403 (c) and (f) (42 U.S.C. 603 (c) and (f));
 section 423(c) (42 U.S.C. 623(c));
 section 1118 (42 U.S.C. 1318);
 section 1817 (b) (42 U.S.C. 1395i (b));
 section 1841(b) (42 U.S.C. 1395t(b));
 [section 1842(b) (3) (42 U.S.C. 1395u(b) (3));]

* * * * *

○

Public Law 94-379 (H.R. 14514),
August 10, 1976, An Act to
permit a State which no longer
qualifies for hold harmless
treatment under the supplemental
security income program to elect
to remain a food stamp cashout
State upon condition that it pass
through a part of the 1976 cost-
of-living increase in SSI benefits
and all of any subsequent increases
in such benefits.



Public Law 94-379
94th Congress, H. R. 14514
August 10, 1976

An Act

To permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8 of Public Law 93-233 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

“(d) Upon the request of the State of California the Secretary shall find, for purposes of the provisions specified in subsection (c) of this section, that the level of such State’s supplementary payments of the type described in section 1616(a) of the Social Security Act has been specifically increased for any month after June 1976 so as to include the bonus value of food stamps if—

“(1) the State law as in effect for such month specifically provides for increases in such payments on account of increases in the level of benefits payable under title XVI of the Social Security Act in a manner designed to assure that, whenever a cost-of-living increase in the level of benefits payable under such title XVI becomes effective for any month after June 1976, the amount of the State supplementary payment payable, for each month with respect to which such cost-of-living increase is effective, to any individual or to any individual with an eligible spouse, will be increased by such amount as is necessary to assure that—

“(A) the aggregate of (i) the amount payable for such month to such individual, or to such individual with an eligible spouse, under such title XVI, and (ii) the amount payable for such month to such individual, or to such individual with an eligible spouse, under the State’s supplementary payments program,

will exceed, by an amount which is not less than the monthly amount of such cost-of-living increase (plus the monthly amount of any previous cost-of-living increases in the level of benefits payable under title XVI of the Social Security Act which became effective for months after June 1976)—

“(B) the aggregate of the amounts which would otherwise have been payable, to such individual (or to such individual with an eligible spouse), under such title XVI and under the State’s supplementary payments program for such month under the law as in effect on June 1, 1976; and

“(2) such month is (A) the month of July 1976, or (B) a month thereafter which is in a period of consecutive months the first of which is July 1976 and each of which is a month with respect to which the conditions of paragraph (1) are met.

As used in this subsection, the term ‘cost-of-living increase in the level of benefits payable under title XVI of the Social Security Act’ means an increase in benefits payable under such title XVI by reason of the

SSI program.
State cash-out
status.
42 USC 1382e
notes.
California sup-
plementary
payment level.
42 USC 1382e.

Definition.

42 USC 1382f. operation of section 1617 of such Act; except that the cost-of-living
42 USC 1381. increase in the level of benefits payable under such title XVI which
became effective for the month of July 1976 shall be deemed (for
purposes of determining the amount of the required excess referred to
in the matter following subparagraph (A) and preceding subpara-
graph (B) in paragraph (1)) to have provided an increase of \$3.00
per month in the case of an individual without an eligible spouse and
\$4.50 per month in the case of an individual with an eligible spouse.”.

42 USC 1382e notes. (b) The provision of section 8 of Public Law 93-233 redesignated
as subsection (f) by subsection (a) of this section is amended by strik-
ing out “subsection (d)” and inserting in lieu thereof “subsection (e)”.

Approved August 10, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1310 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 122 (1976):

July 29, considered and passed House and Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 33:

Aug. 11, Presidential statement.

Report of the Committee on
Ways and Means, to accompany
H.R. 14514, House of
Representatives Report No.
94-1310.

SOCIAL SECURITY BENEFITS
P.L. 94-379

SOCIAL SECURITY BENEFITS—INCREASE

P.L. 94-379, see page 90 Stat. 1111

House Report (Ways and Means Committee) No. 94-1310,
June 28, 1976 [To accompany H.R. 14514]

Cong. Record Vol. 122 (1976)

DATES OF CONSIDERATION AND PASSAGE

House July 29, 1976

Senate July 29, 1976

No Senate Report was submitted with this legislation.

HOUSE REPORT NO. 94-1310

[page 1]

The Committee on Ways and Means, to whom was referred the bill (H.R. 14514) to permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cash-out State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. GENERAL DISCUSSION

Your Committee bill would allow a state which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to retain food stamp "cash out" status upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases to such benefits.

Under Section 8 of Public Law 93-233, SSI recipients are categorically ineligible to purchase food stamps in those states in which the Federal government is contributing an equivalent amount to the bonus value of food stamps through the states' hold harmless payment pursuant to Section 401 of P.L. 92-603. These states' adjusted payment levels are increased to include the bonus value of food stamps and that bonus value must be part of the Federally administered supplement. In other words, if a state loses hold harmless status, the SSI

[page 2]

recipients become eligible for food stamps, and it is no longer a cash-out state.

On July 1, when the SSI cost-of-living increase takes effect, three states will lose their hold harmless designation. Thus, the SSI recipients in the states of California, New York, and Nevada will be allowed to purchase food stamps.

New York and Nevada at this time have decided to provide food stamps to SSI recipients and have begun an administrative mechanism to accomplish this task. However, the Governor and the State

LEGISLATIVE HISTORY

P.L. 94-379

Legislature of California prefer to retain cash-out status for food stamps.

They claim that only one third of the SSI recipients are expected to participate in the food stamp program and where the bonus value of food stamps is low, the total value of the benefit would not be as high as the administrative cost. They estimate that the Federal-state cost of administering the food stamp program would be \$62 million, while the total bonus value of the food stamps would only be 521 million.

Accordingly, your Committee's bill specifies the conditions under which a state losing hold harmless status may continue to retain food stamp "cash-out" status. A compromise position has been reached which would require that:

1. In Fiscal Year 1977, a state would have to provide for a \$3 increase in the amounts paid to individual SSI recipients and a proportionate increase to couples.

2. In years after FY 1977, a state would have to provide for a pass through of Federal SSI cost-of-living increases or general increases in SSI.

3. If current state law provides for a cost-of-living increase in the state supplementary payments, such an increase may not be counted in determining whether the state has provided for the \$3 increase to individuals and the proportionate increase to couples.

II. OTHER MATTERS REQUIRED TO BE DISCUSSED

In compliance with clause 7(a) of Rule XIII of the Rules of the House of Representatives, the following statement is made. The Committee found that there would be no Federal cost connected with the implementation of H.R. 14514.

In compliance with clause 2(1)(2)(B) of Rule XI of the House of Representatives, the following statement is made. The bill H.R. 14514 was ordered favorably reported to the House of Representatives by a recorded vote of 15 ayes, 13 noes.

In compliance with clause 2(1)(4) of Rule XI of the House of Representatives, the following statement is made. H.R. 14514 should not have any inflationary impact on prices or on the cost of operation of the national economy because it has no significant cost features.

In compliance with clause 2(1)(3) subdivisions (A), (B) and (D) of Rule XI of the House of Representatives, the following statements are made. With respect to subdivision (A) of clause (3), the Committee's review of the situation addressed by H.R. 14514 revealed that this legislation is warranted.

[page 3]

With respect to subdivision (B) of clause (3), the following statement is made. The bill contains no new budget authority and no tax expenditures.

With respect to subdivision (D) of clause (3), the Committee advises that no oversight findings or recommendations have been made by the Committee on Government Operations with respect to the subject matter of this legislation.

In compliance with Rule XI clause 2(1)(3)(C), a cost estimate for H.R. 14514 prepared by the Congressional Budget Office is contained in Section III of this report.

SOCIAL SECURITY BENEFITS

P.L. 94-379

III. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE FOR H.R. 14514

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 25, 1976.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 14514, legislation permitting states in "hold harmless" status under the Supplemental Security Income Program to retain cash-out provisions for Food Stamps.

As you will note, the Congressional Budget Office has indicated that there will be no budgetary cost for any provisions of the Committee bill. Explanations for these determinations are provided in the cost estimate discussion.

Should the Committee so desire, we would be pleased to discuss this cost estimate further with Members or staff.

Sincerely,

ALICE M. RIVLIN,
Director.

Attachment.

Cost estimate: The Congressional Budget Office has concluded that there will be no Federal cost in connection with the implementation of H.R. 14514.

Basis for estimate: The shift of SSI recipients in to normal Food Stamp application and determination channels would not alter the benefits to those individuals. Thus, if States elected *not* to retain cash-out provisions, the only costs incurred would be increases in administrative expenses.

H.R. 14514 allows States to retain cash-out provisions and thus saves any increase in administrative expenses resulting from the additional burden on the Food Stamp program. Also, the conditions upon which retention of cash-out provisions is allowed involves only costs to the States and not the Federal government.

* * * * *

[page 7]

MINORITY VIEWS ON H.R. 14514

We are opposed to H.R. 14514 because we believe that it is a wolf in sheep's clothing. It is not, as the majority describes it, simply a means of enabling the State of California to continue to "cash out" food stamps for SSI recipients, upon the condition that the State pass \$3 of the Federal benefit increase of this year and the full amount of future increases through to SSI beneficiaries.

This legislation was conceived by majority members of the California delegation as an expedient means of advancing the interests of that State's administration. We can find no compelling national justification for its enactment; to the contrary, we believe that its

LEGISLATIVE HISTORY

P.L. 94-379

approval only would undermine the sound principle of consistent Federal policy toward all States.

As a result of increases in Federal SSI benefits, California will cease to be in the "hold harmless" category on July 1 of this year. In the absence of special legislation, California will lose the option of cashing out food stamps for SSI recipients. Unlike other States facing similar circumstances, California is seeking to avoid implementation of food stamps. Behind this objective lurks a more parochial motive than the stated concern over administrative expense.

It is apparent that California seeks to divert funds from food stamp administration in order to provide a six percent increase in benefits to AFDC recipients. Such an increase presently is being considered by the legislature, as an addition to the cost-of-living increase which annually is awarded to welfare recipients.

On July 1, the basic Federal SSI benefit will increase from \$158 to \$168. If this bill is not enacted, the California grant for a single aged person, including State supplementation, will increase from \$259 to \$273. SSI recipients would become eligible to purchase food stamps.

If California legislators wish to achieve a greater balance between assistance to the aged and to the AFDC population, the State certainly may do so within the parameters of its own resources. But we cannot participate in a Federal action which would deny the needy aged in that State of access to food stamps, which are generally available elsewhere, for the narrowly designed purpose of responding to other interests within the State.

The fact that many welfare recipients are able to work, while the elderly usually cannot, only magnifies the inappropriateness of this proposed Federal policy. We urge the defeat of this legislation.

JOHN J. DUNCAN.

BILL ARCHER.

BARBER B. CONABLE, JR.

WILLIAM A. STEIGER.

GUY VANDER JAGT.

PHILIP M. CRANE.

WILLIAM M. KETCHUM.

HERMAN T. SCHNEEBELL.

DONALD D. CLANCY.

BILL FRENZEL.

JAMES G. MARTIN.

L. A. BAFALIS.

Public Law 94-437 (S. 522),
September 30, 1976, An Act
to implement the Federal
responsibility for the care
and education of the Indian
people by improving the services
and facilities of Federal Indian
health programs and encouraging
maximum participation of Indians
in such programs.



Public Law 94-437
94th Congress, S. 522
September 30, 1976

An Act

To implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Health Care Improvement Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States. For example, for Indians compared to all Americans in 1971, the tuberculosis death rate was over four and one-half times greater, the influenza and pneumonia death rate over one and one-half times greater, and the infant death rate approximately 20 per centum greater.

(e) All other Federal services and programs in fulfillment of the Federal responsibility to Indians are jeopardized by the low health status of the American Indian people.

(f) Further improvement in Indian health is imperiled by—

(1) inadequate, outdated, inefficient, and undermanned facilities. For example, only twenty-four of fifty-one Indian Health Service hospitals are accredited by the Joint Commission on Accreditation of Hospitals; only thirty-one meet national fire and safety codes; and fifty-two locations with Indian populations have been identified as requiring either new or replacement health centers and stations, or clinics remodeled for improved or additional service;

(2) shortage of personnel. For example, about one-half of the Service hospitals, four-fifths of the Service hospital outpatient clinics, and one-half of the Service health clinics meet only 80 per centum of staffing standards for their respective services;

(3) insufficient services in such areas as laboratory, hospital inpatient and outpatient, eye care and mental health services, and services available through contracts with private physicians, clinics, and agencies. For example, about 90 per centum of the surgical operations needed for otitis media have not been performed, over 57 per centum of required dental services remain to be provided, and about 98 per centum of hearing aid requirements are unmet;

(4) related support factors. For example, over seven hundred housing units are needed for staff at remote Service facilities;

Indian Health
Care Improve-
ment Act,
25 USC 1601
note.

25 USC 1601.

(5) lack of access of Indians to health services due to remote residences, undeveloped or underdeveloped communication and transportation systems, and difficult, sometimes severe, climate conditions; and

(6) lack of safe water and sanitary waste disposal services. For example, over thirty-seven thousand four hundred existing and forty-eight thousand nine hundred and sixty planned replacement and renovated Indian housing units need new or upgraded water and sanitation facilities.

(g) The Indian people's growth of confidence in Federal Indian health services is revealed by their increasingly heavy use of such services. Progress toward the goal of better Indian health is dependent on this continued growth of confidence. Both such progress and such confidence are dependent on improved Federal Indian health services.

DECLARATION OF POLICY

25 USC 1602.

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.

DEFINITIONS

25 USC 1603.

SEC. 4. For purposes of this Act—

(a) "Secretary", unless otherwise designated, means the Secretary of Health, Education, and Welfare.

(b) "Service" means the Indian Health Service.

(c) "Indians" or "Indian", unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) hereof, except that, for the purpose of sections 102, 103, and 201(c) (5), such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(d) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(e) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(f) "Urban Indian" means any individual who resides in an urban center, as defined in subsection (g) hereof, and who meets one or more

43 USC 1601
note.

of the four criteria in subsection (c) (1) through (4) of this section.

(g) "Urban center" means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

(h) "Urban Indian organization" means a nonprofit corporate body situated in an urban center, composed of urban Indians, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

TITLE I—INDIAN HEALTH MANPOWER

PURPOSE

SEC. 101. The purpose of this title is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians. 25 USC 1611.

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 102. (a) The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities or Indian tribes or tribal organizations to assist such entities in meeting the costs of— 25 USC 1612.

(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them (A) to enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (B), if they are not qualified to enroll in any such school, to undertake such post-secondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any school referred to in clause (1)(A) of this subsection or who are undertaking training necessary to qualify them to enroll in any such school; or

(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in clause (1)(A) of this subsection.

(b) (1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe: *Provided*, That the Secretary shall give a preference to applications submitted by Indian tribes or tribal organizations. Application, submittal and approval.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments pursuant to grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary. Amount and payment.

(c) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated \$900,000 for fiscal year 1978, \$1,500,000 for fiscal year 1979, and \$1,800,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for such payments such sums as may be specifically authorized by an Act enacted after this Act. Appropriation authorization.

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

Scholarship grants, eligibility requirements,
25 USC 1613.

SEC. 103. (a) The Secretary, acting through the Service, shall make scholarship grants to Indians who—

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the capability to successfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions.

Two-year limitation.

(b) Each scholarship grant made under this section shall be for a period not to exceed two academic years, which years shall be for compensatory preprofessional education of any grantee.

(c) Scholarship grants made under this section may cover costs of tuition, books, transportation, board, and other necessary related expenses.

Appropriation authorization.

(d) There are authorized to be appropriated for the purpose of this section: \$800,000 for fiscal year 1978, \$1,000,000 for fiscal year 1979, and \$1,300,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

Appropriation authorization.

SEC. 104. Section 225(i) of the Public Health Service Act (42 U.S.C. 234(i)) is amended (1) by inserting "(1)" after "(i)", and (2) by adding at the end the following:

"(2) (A) In addition to the sums authorized to be appropriated under paragraph (1) to carry out the Program, there are authorized to be appropriated for the fiscal year ending September 30, 1978, \$5,450,000; for the fiscal year ending September 30, 1979, \$6,300,000; for the fiscal year ending September 30, 1980, \$7,200,000; and for fiscal years 1981, 1982, 1983, and 1984 such sums as may be specifically authorized by an Act enacted after the Indian Health Care Improvement Act, to provide scholarships under the Program to provide physicians, osteopaths, dentists, veterinarians, nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with this section except as provided in subparagraph (B).

Distribution.

"(B) (i) The Secretary, acting through the Indian Health Service, shall determine the individuals who receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative needs of Indians for additional service in specific health professions.

Active duty service obligation.
Post. p. 1410.

"(ii) The active duty service obligation prescribed by subsection (c) shall be met by the recipient of an Indian Health Scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act, or in the private practice of his profession if, as determined by the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"Indians."

"(C) For purposes of this paragraph, the term 'Indians' has the same meaning given that term by subsection (c) of section 4 of the

Indian Health Care Improvement Act and includes individuals described in clauses (1) through (4) of that subsection.” Ante, p. 1401.

INDIAN HEALTH SERVICE EXTERN PROGRAMS

SEC. 105. (a) Any individual who receives a scholarship grant pursuant to section 104 shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant. 25 USC 1614.

(b) Any individual enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions may be employed by the Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year.

(c) Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department of Health, Education, and Welfare.

(d) There are authorized to be appropriated for the purpose of this section: \$600,000 for fiscal year 1978, \$800,000 for fiscal year 1979, and \$1,000,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act. Appropriation authorization.

CONTINUING EDUCATION ALLOWANCES

SEC. 106. (a) In order to encourage physicians, dentists, and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people resides, the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses. 25 USC 1615.

(b) There are authorized to be appropriated for the purpose of this section: \$100,000 for fiscal year 1978, \$200,000 for fiscal year 1979, and \$250,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act. Appropriation authorization.

TITLE II—HEALTH SERVICES

HEALTH SERVICES

SEC. 201. (a) For the purpose of eliminating backlogs in Indian health care services and to supply known, unmet medical, surgical, 25 USC 1621.

dental, optometrical, and other Indian health needs, the Secretary is authorized to expend, through the Service, over the seven-fiscal-year period beginning after the date of the enactment of this Act the amounts authorized to be appropriated by subsection (c). Funds appropriated pursuant to this section for each fiscal year shall not be used to offset or limit the appropriations required by the Service under other Federal laws to continue to serve the health needs of Indians during and subsequent to such seven-fiscal-year period, but shall be in addition to the level of appropriations provided to the Service under this Act and such other Federal laws in the preceding fiscal year plus an amount equal to the amount required to cover pay increases and employee benefits for personnel employed under this Act and such laws and increases in the costs of serving the health needs of Indians under this Act and such laws, which increases are caused by inflation.

Employment
during seven-
fiscal-year
period.

(b) The Secretary, acting through the Service, is authorized to employ persons to implement the provisions of this section during the seven-fiscal-year period in accordance with the schedule provided in subsection (c). Such positions authorized each fiscal year pursuant to this section shall not be considered as offsetting or limiting the personnel required by the Service to serve the health needs of Indians during and subsequent to such seven-fiscal-year period but shall be in addition to the positions authorized in the previous fiscal year.

(c) The following amounts and positions are authorized, in accordance with the provisions of subsections (a) and (b), for the specific purposes noted:

(1) Patient care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, \$8,500,000 and two hundred and twenty-five positions for fiscal year 1979, and \$16,200,000 and three hundred positions for fiscal year 1980.

(2) Field health, excluding dental care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, \$3,350,000 and eighty-five positions for fiscal year 1979, and \$5,550,000 and one hundred and thirteen positions for fiscal year 1980.

(3) Dental care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, \$1,500,000 and eighty positions for fiscal year 1979, and \$1,500,000 and fifty positions for fiscal year 1980.

(4) Mental health: (A) Community mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, \$1,300,000 and thirty positions for fiscal year 1979, and \$2,000,000 and thirty positions for fiscal year 1980.

(B) Inpatient mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, \$400,000 and fifteen positions for fiscal year 1979, and \$600,000 and fifteen positions for fiscal year 1980.

(C) Model dormitory mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, \$1,250,000 and fifty positions for fiscal year 1979, and \$1,875,000 and fifty positions for fiscal year 1980.

(D) Therapeutic and residential treatment centers: sums and positions as provided in subsection (e) for fiscal year 1978, \$300,000 and ten positions for fiscal year 1979, and \$400,000 and five positions for fiscal year 1980.

(E) Training of traditional Indian practitioners in mental health: sums as provided in subsection (e) for fiscal year 1978, \$150,000 for fiscal year 1979, and \$200,000 for fiscal year 1980.

(5) Treatment and control of alcoholism among Indians: \$4,000,000 for fiscal year 1978, \$9,000,000 for fiscal year 1979, and \$9,200,000 for fiscal year 1980.

(6) Maintenance and repair (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, \$3,000,000 and twenty positions for fiscal year 1979, and \$4,000,000 and thirty positions for fiscal year 1980.

(7) For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the items referred to in the preceding paragraphs such sums as may be specifically authorized by an Act enacted after this Act. For such fiscal years, positions are authorized for such items (other than the items referred to in paragraphs (4)(E) and (5)) as may be specified in an Act enacted after the date of the enactment of this Act.

Appropriation
authorization.

(d) The Secretary, acting through the Service, shall expend directly or by contract not less than 1 per centum of the funds appropriated under the authorizations in each of the clauses (1) through (5) of subsection (c) for research in each of the areas of Indian health care for which such funds are authorized to be appropriated.

Research
funds.

(e) For fiscal year 1978, the Secretary is authorized to apportion not to exceed a total of \$10,025,000 and 425 positions for the programs enumerated in clauses (c) (1) through (4) and (c) (6) of this section.

Appropriation
authorization.

TITLE III—HEALTH FACILITIES

CONSTRUCTION AND RENOVATION OF SERVICE FACILITIES

SEC. 301. (a) The Secretary, acting through the Service, is authorized to expend over the seven-fiscal-year period beginning after the date of the enactment of this Act the sums authorized by subsection (b) for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service.

25 USC 1631.

(b) The following amounts are authorized to be appropriated for purposes of subsection (a):

Appropriation
authorization.

(1) Hospitals: \$67,180,000 for fiscal year 1978, \$73,256,000 for fiscal year 1979, and \$49,742,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for hospitals such sums as may be specifically authorized by an Act enacted after this Act.

(2) Health centers and health stations: \$6,960,000 for fiscal year 1978, \$6,226,000 for fiscal year 1979, and \$3,720,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for health centers and health stations such sums as may be specifically authorized by an Act enacted after this Act.

(3) Staff housing: \$1,242,000 for fiscal year 1978, \$21,725,000 for fiscal year 1979, and \$4,116,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for staff housing such sums as may be specifically authorized by an Act enacted after this Act.

(c) Prior to the expenditure of, or the making of any firm commitment to expend, any funds authorized in subsection (a), the Secretary, acting through the Service shall—

(1) consult with any Indian tribe to be significantly affected by any such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning the

Consultation.

size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

(2) be assured that, wherever practicable, such facility, not later than one year after its construction or renovation, shall meet the standards of the Joint Committee on Accreditation of Hospitals.

CONSTRUCTION OF SAFE WATER AND SANITARY WASTE
DISPOSAL FACILITIES

25 USC 1632.

SEC. 302. (a) During the seven-fiscal-year period beginning after the date of the enactment of this Act, the Secretary is authorized to expend under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the sums authorized under subsection (b) to supply unmet needs for safe water and sanitary waste disposal facilities in existing and new Indian homes and communities.

Appropriation
authorization.

(b) For expenditures of the Secretary authorized by subsection (a) for facilities in existing Indian homes and communities there are authorized to be appropriated \$43,000,000 for fiscal year 1978, \$30,000,000 for fiscal year 1979, and \$30,000,000 for fiscal year 1980. For expenditures of the Secretary authorized by subsection (a) for facilities in new Indian homes and communities there are authorized to be appropriated such sums as may be necessary for fiscal years 1978, 1979, and 1980. For fiscal years 1981, 1982, 1983, and 1984 for expenditures authorized by subsection (a) there are authorized to be appropriated such sums as may be specifically authorized in an Act enacted after this Act.

New York
Indian tribes,
eligibility for
assistance.

(c) Former and currently federally recognized Indian tribes in the State of New York shall be eligible for assistance under this section.

PREFERENCE TO INDIANS AND INDIAN FIRMS

25 USC 1633.

SEC. 303. (a) The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an "Indian firm") in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.

Construction
personnel,
pay rates.

(b) For the purpose of implementing the provisions of this title, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act).

40 USC 276a
note.

SOBOBA SANITATION FACILITIES

SEC. 304. The Act of December 17, 1970 (84 Stat. 1465), is hereby amended by adding the following new section 9 at the end thereof:
“SEC. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267).”

42 USC 2004a.

TITLE IV—ACCESS TO HEALTH SERVICES

ELIGIBILITY OF INDIAN HEALTH SERVICE FACILITIES
UNDER MEDICARE PROGRAM

SEC. 401. (a) Sections 1814(c) and 1835(d) of the Social Security Act are each amended by striking out “No payment” and inserting in lieu thereof “Subject to section 1880, no payment”.
(b) Part C of title XVIII of such Act is amended by adding at the end thereof the following new section :

42 USC 1395f,
1395n.
42 USC 1395x.

“INDIAN HEALTH SERVICE FACILITIES

“SEC. 1880. (a) A hospital or skilled nursing facility of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets all of the conditions and requirements for such payments which are applicable generally to hospitals or skilled nursing facilities (as the case may be) under this title.
“(b) Notwithstanding subsection (a), a hospital or skilled nursing facility of the Indian Health Service which does not meet all of the conditions and requirements of this title which are applicable generally to hospitals or skilled nursing facilities (as the case may be), but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for payments under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted.
“(c) Notwithstanding any other provision of this title, payments to which any hospital or skilled nursing facility of the Indian Health Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the hospitals and skilled nursing facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements.
“(d) The annual report of the Secretary which is required by section 701 of the Indian Health Care Improvement Act shall include (along with the matters specified in section 403 of such Act) a detailed

Hospital or skilled nursing facility, eligibility for payments.
42 USC 1395qq.

Ineligible hospital or skilled nursing facility, submittal of plan for compliance.

Fund for improvements.

Post, p. 1413.
Post, p. 1410.

statement of the status of the hospitals and skilled nursing facilities of the Service in terms of their compliance with the applicable conditions and requirements of this title and of the progress being made by such hospitals and facilities (under plans submitted under subsection (b) and otherwise) toward the achievement of such compliance.”

(c) Any payments received for services provided to beneficiaries hereunder shall not be considered in determining appropriations for health care and services to Indians.

(d) Nothing herein authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.

Services to
an Indian
beneficiary.
42 USC 1395.

SERVICES PROVIDED TO MEDICAID ELIGIBLE INDIANS

42 USC 1396.

SEC. 402. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

“INDIAN HEALTH SERVICE FACILITIES

Eligibility for
reimburse-
ment.
42 USC 1396j.
Ante, p. 1401.

“SEC. 1911. (a) A facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

Facilities,
submittal of
plan for
compliance.

“(b) Notwithstanding subsection (a), a facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.”

42 USC 1396j
note.

(b) The Secretary is authorized to enter into agreements with the appropriate State agency for the purpose of reimbursing such agency for health care and services provided in Service facilities to Indians who are eligible for medical assistance under title XIX of the Social Security Act, as amended.

42 USC 1396.

(c) Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) is entitled under a State plan approved under title XIX of the Social Security Act by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such Service in the United States are in compliance with such conditions and requirements.

Supra.

(d) Any payments received for services provided recipients hereunder shall not be considered in determining appropriations for the provision of health care and services to Indians. 42 USC 1396j note.

(e) Section 1905(b) of the Social Security Act is amended by inserting at the end thereof the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).". Federal medical assistance percentage. 42 USC 1396d.

Ante, p. 1401.

REPORT

SEC. 403. The Secretary shall include in his annual report required by section 701 an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements through titles XVIII and XIX of the Social Security Act, as amended. 25 USC 1671 note.

42 USC 1395x, 1396.

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

PURPOSE

SEC. 501. The purpose of this title is to encourage the establishment of programs in urban areas to make health services more accessible to the urban Indian population. 25 USC 1651.

CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

SEC. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in the urban centers in which such organizations are situated, programs which meet the requirements set forth in sections 503 and 504. 25 USC 1652.

CONTRACT ELIGIBILITY

SEC. 503. (a) The Secretary, acting through the Service, shall place such conditions as he deems necessary to effect the purpose of this title in any contract which he makes with any urban Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake the following activities: 25 USC 1653.

- (1) determine the population of urban Indians which are or could be recipients of health referral or care services;
- (2) identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians;
- (3) assist such resources in providing service to such urban Indians;
- (4) assist such urban Indians in becoming familiar with and utilizing such resources;
- (5) provide basic health education to such urban Indians;
- (6) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (3) through (5) of this subsection;
- (7) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(8) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(9) where necessary, provide or contract for health care services to urban Indians.

Urban Indian organizations, selection criteria.

(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations with which to contract pursuant to this title. Such criteria shall, among other factors, take into consideration:

(1) the extent of the unmet health care needs of urban Indians in the urban center involved;

(2) the size of the urban Indian population which is to receive assistance;

(3) the relative accessibility which such population has to health care services in such urban center;

(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate any previous or current public or private health services project funded by another source in such urban center;

(5) the appropriateness and likely effectiveness of the activities set forth in subsection (a) in such urban center;

(6) the existence of an urban Indian organization capable of performing the activities set forth in subsection (a) and of entering into a contract with the Secretary pursuant to this title; and

(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other resource agencies.

OTHER CONTRACT REQUIREMENTS

25 USC 1654.

SEC. 504. (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (48 Stat. 793), as amended.

49 Stat. 793.
40 USC 270a-270d.

(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

Contract revision or amendment.

(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this title as necessary to carry out the purposes of this title: *Provided, however,* That whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

Government facilities, use.

(d) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

REPORTS AND RECORDS

SEC. 505. For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to section 503(a) (7) and (8), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.

Report to Secretary of the Interior.
25 USC 1655.
Audit.

AUTHORIZATIONS

SEC. 506. There are authorized to be appropriated for the purpose of this title: \$5,000,000 for fiscal year 1978, \$10,000,000 for fiscal year 1979, and \$15,000,000 for fiscal year 1980.

25 USC 1656.

REVIEW OF PROGRAM

SEC. 507. Within six months after the end of fiscal year 1979, the Secretary, acting through the Service and with the assistance of the urban Indian organizations which have entered into contracts pursuant to this title, shall review the program established under this title and submit to the Congress his assessment thereof and recommendations for any further legislative efforts he deems necessary to meet the purpose of this title.

Submittal to Congress.
Legislative recommendations.
25 USC 1657.

RURAL HEALTH PROJECTS

SEC. 508. Not to exceed 1 per centum of the amounts authorized by section 506 shall be available for not to exceed two pilot projects providing outreach services to eligible Indians residing in rural communities near Indian reservations.

25 USC 1658.

TITLE VI—AMERICAN INDIAN SCHOOL OF MEDICINE;
FEASIBILITY STUDY

FEASIBILITY STUDY

SEC. 601. The Secretary, in consultation with Indian tribes and appropriate Indian organizations, shall conduct a study to determine the need for, and the feasibility of, establishing a school of medicine to train Indians to provide health services for Indians. Within one year of the date of the enactment of this Act the Secretary shall complete such study and shall report to the Congress findings and recommendations based on such study.

25 USC 1661.
Report to Congress.

TITLE VII—MISCELLANEOUS

REPORTS

Report to the President and Congress.
25 USC 1671.

Program review, submitted to Congress.

SEC. 701. The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this Act. Within three months after the end of fiscal year 1979, the Secretary shall review expenditures and progress made under this Act and make recommendations to the Congress concerning any additional authorizations for fiscal years 1981 through 1984 for programs authorized under this Act which he deems appropriate. In the event the Congress enacts legislation authorizing appropriations for programs under this Act for fiscal years 1981 through 1984, within three months after the end of fiscal year 1983, the Secretary shall review programs established or assisted pursuant to this Act and shall submit to the Congress his assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and insure a health status for Indians, which are at a parity with the health services available to, and the health status, of the general population.

REGULATIONS

Consultation.
25 USC 1672.

Publication in Federal Register.

Rules or regulations, proposed revision or amendment; publication in Federal Register.

SEC. 702. (a) (1) Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

(2) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(3) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(b) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to this Act: *Provided*, That, prior to any revision of or amendment to such rules or regulations, the Secretary shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.

PLAN OF IMPLEMENTATION

Submittal to Congress.
25 USC 1673.

SEC. 703. Within two hundred and forty days after enactment of this Act, a plan will be prepared by the Secretary and will be submitted to the Congress. The plan will explain the manner and schedule (including a schedule of appropriation requests), by title and section, by which the Secretary will implement the provisions of this Act.

LEASES WITH INDIAN TRIBES

SEC. 704. Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes for periods not in excess of twenty years. 25 USC 1674.

AVAILABILITY OF FUNDS

SEC. 705. The funds appropriated pursuant to this Act shall remain available until expended. 25 USC 1675.

Approved September 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1026 part I and 94-1026 part 4 (Comm. on Interior and Insular Affairs), No. 94-1026 pt. II (Comm. on Ways and Means), and No. 94-1026 pt. III (Comm. on Interstate and Foreign Commerce) all accompanying H. R. 2525.
SENATE REPORT No. 94-133 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD;

Vol. 121 (1975): May 16, considered and passed Senate.

Vol. 122 (1976): July 30, considered and passed House, amended, in lieu of H. R. 2525.

Sept. 9, Senate concurred in House amendment with an amendment.

Sept. 16, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 40 (1976): Oct. 1, Presidential statement.

Report of the Committee on
Ways and Means, to accompany
H.R. 2525, House of
Representatives Report No.
94-1026, Excerpts from.

INDIAN HEALTH CARE ACT
P.L. 94-437

Title IV—Access to Health Services

Section 401. Services Provided to Medicare Eligible Indians

Provisions.—This section makes eligible for reimbursement under the Medicare Program services rendered to Indian patients in service facilities, whether operated by IHS or an Indian tribe. In addition, this section provides that payments received by such facilities are to be credited to the facility itself and such payment shall not be considered as a basis for changing the level of appropriations.

Purpose.—The purpose of this section is to remove a current prohibition against Medicare reimbursement for services performed in IHS facilities. By removing this limitation, the IHS will be able to service Medicare Indian patients who previously had only been able to use their benefits in hospitals far removed from the reservation.

Section 402. Services Provided to Medicaid Eligible Indians

Provisions.—This section is similar to section 401 except that it relates to Medicaid and authorizes agreements between the IHS and the State concerning reimbursement. This section also contains language providing for the crediting of payments to the facility performing the service and prohibiting the use of payments as a basis for changing the level of appropriations.

Purpose.—The purpose is the same as for Section 401.

Expected Results.—The anticipated results of this title are necessarily unknown since it is nearly impossible to predict the number of

Indians who would qualify for Medicare and/or Medicaid. It can be expected however that some increase in the amount of money available to the Indian Health Service facilities will result from passage of this Title.

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VI. LACK OF INDIAN PARTICIPATION IN MEDICARE AND MEDICAID PROGRAMS: BACKGROUND AND ANALYSIS OF TITLE IV AS AMENDED

A. BACKGROUND

Medicare Program

In 1965, the Congress established, under the Social Security Act, the Medicare Program (title 18) which provides health benefits to persons over 65 and to eligible individuals under 65 who are disabled.

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Medicare is the Federal Government's largest health activity and will account for 40 percent of Federal health outlays in 1975. It includes, for the aged, disabled, and those suffering from kidney disease, both hospital insurance (Part A) which pays for inpatient care and subsequent skilled nursing home and home health benefits, and supplementary medical insurance (Part B) which pays for physicians and other outpatient services, such as medical services and supplies, home health care services, outpatient hospital services and therapy, and independent laboratory services.

Part A is financed largely through social security taxes on earnings, while Part B is financed by premiums for enrollees (currently \$6.70 per month) and matching contributions from general tax revenues. Both insurance components are administered primarily by private insurance companies under contract with the Social Security Administration. An estimated 21.6 million aged persons, comprising over 95 percent of the Nation's aged population were enrolled in Medicare in 1975. In addition, 1.9 million social security recipients under age 65 who are eligible for social security disability benefits and all persons covered by social security and their families who require treatment for chronic kidney disease are also eligible for Medicare benefits.

Medicare outlays pay primarily for hospital and physicians services, which make up 71 percent and 21 percent, respectively, of benefit payments. Nearly 86 percent of benefit payments will be on behalf of the aged, while 13 percent will be for services to the disabled, and 1 percent for those requiring treatment of chronic kidney disease. The average payment for Part A beneficiaries is estimated to increase from \$1,882 in 1975 to \$2,082 in 1976, and the average payment for Part B beneficiaries is estimated to rise from \$298 to \$355 over this same period.

The following table displays basic data concerning the Medicare program coverage, benefits, and administration:

MEDICARE COVERAGE, BENEFITS, AND ADMINISTRATION

[Dollars in millions]

	1975 actual	1976 estimate	1977 estimate
Hospital insurance (HI):			
Persons with protection (millions).....	23.7	24.3	24.9
Beneficiaries receiving services (millions).....	5.5	5.7	5.9
Benefit payments.....	\$10,353	\$11,869	\$12,950
Administrative expenses.....	\$259	\$327	\$321
Claims received (millions).....	10.3	11.9	12.7
Supplementary medical insurance (SMI):			
Persons with protection (millions).....	23.3	23.9	24.6
Beneficiaries receiving services (millions).....	12.6	13.2	14.2
Benefit payments.....	\$3,765	\$4,687	\$5,804
Administrative expenses.....	\$405	\$550	\$561
Claims received (millions).....	97.5	107.8	121.1

Source: Office of Management and Budget, "Special Analysis: Budget of the United States Government, Fiscal Year 1977. Page 208.

Medicaid Program

The Medicaid Program (title 19), which was established along with the Medicare Program as a part of the Social Security Amendments of 1965, is a Federal health program for the poor, administered

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by the States, for which the Federal Government and the States match expenses.

Under Medicaid, health services are provided to those individuals receiving public assistance through State welfare programs. In States where Medicaid is operating, the State must pay for at least these eight services: inpatient hospital care, outpatient hospital services, other laboratory and x-ray services, skilled nursing home services, physicians' services, family planning, home health, and early and periodic screening, diagnosis, and treatment services for persons up to age 21.

In many States, at their option, Medicaid also pays for such additional services as dental care, prescribed drugs, eye glasses, clinic services, and other diagnostic, screening, preventive, and rehabilitative services. States may also choose to provide medical services to the medically needy, e.g., those persons with income slightly above the public assistance level who are unable to pay all medical expenses. Federal matching assistance ranges from 50 percent to 83 percent of the costs of providing these benefits, depending upon States' per capita incomes. The States determine the level and types of medical benefits.

Medicaid can pay for services that Medicare does not cover for people who are eligible for both programs. In addition, Medicaid can pay the deductibles for both Part A and Part B of Medicare and monthly insurance premium (Part B of Medicare) for eligible people as well.

In 1975, health care services under Medicaid will be provided to approximately 28.6 million welfare recipients and other low-income persons. The Federal outlays will be \$6.5 billion. This represents a 200 percent increase in persons helped and a 182 percent increase in funding since 1969. Early and periodic screening of children for dental and other health problems will be emphasized in fiscal year 1975 in order to identify health problems before they reach an advanced stage and become unnecessarily costly to treat.

Although the Medicaid matching formula provides higher Federal matching assistance to low-income States, most of the program funds go to high-income States. This results from the fact that more affluent States have been better able to expand the population and services covered. Five of the highest income States received over 50 percent of all Federal Medicaid funds in 1973, and two States—New York and California—received nearly 40 percent of those funds.

Indian Participation

Although Indians are eligible for Medicare and Medicaid benefits in the same manner as any other citizens, they have experienced an inability to take advantage of those benefits.

This lack of participation in the Medicare and Medicaid Program is a result of inaccessibility. Since most Indians reside on remote reservations, access to services supported by either Medicare or Medicaid is severely limited. In most cases, the only available health delivery system is that of the Indian Health Service, yet the IHS, as a Federal facility, cannot, under existing law, receive payments from Medicare or reimbursements for services provided under Medicaid. As a result, Indian citizens are unable to receive Medicare or Medicaid payments for necessary care.

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B. ANALYSIS

Objectives of Title IV of H.R. 2525, as Amended

The purpose of the Committee in adopting title IV to H.R. 2525 was to remedy this problem of access for Indians to Medicare and Medicaid supported services. The remedy, as provided in sections 401 and 402, is in the form of authorizations of payments through the two programs to qualified Indian Health Service hospitals and long-term care facilities for services rendered to Medicare and Medicaid patients. In addition, section 402 would provide 100% Federal Medicaid matching funds for services provided to any Indian in an IHS facility, if that Indian is eligible for both Medicaid coverage and coverage through the Indian Health Service programs.

In adopting the 100% Medicaid reimbursement formula, the Committee took the view that it would be unfair and inequitable to burden a State Medicaid program with costs which normally would have been borne by the Indian Health Service. In this connection, the Committee notes that, in considering H.R. 3153, the Social Security Amendments of 1973 in the 93rd Congress, the appropriate Senate and House Committees having primary jurisdiction over Medicare-Medicaid adopted a similar reimbursement provision. In the report accompanying that legislation, the Senate Finance Committee justified the 100% reimbursement method by noting that "with respect to matters relating to Indians, the Federal Government has traditionally assumed major responsibility. The Committee wishes to assure that a State's election to participate in the Medicaid program will not result in a lessening of Federal support of health care services for this population group, or that the effect of Medicaid coverage be to shift to States a financial burden previously borne by the Federal Government."

It is the intent of the Committee that any Medicare and Medicaid funds received by the Indian Health Service program be used to supplement—and not supplant—current IHS appropriations. In other words, the Committee firmly expects that funds from Medicare and Medicaid will be used to expand and improve current IHS health care services and not to substitute for present expenditures. Section 403 would require the Secretary of Health, Education, and Welfare to report to the Congress annually on the use of the additional funds available to the IHS because of the Medicare and Medicaid reimbursements received by the Indian Health Service program.

Title IV would also require that the Indian Health Service facilities which receive reimbursement from Medicare or Medicaid meet the applicable quality standards and conditions of participation established under the two programs. The Secretary would be expected to assure that each facility could meet the standards by not later than two years from submission of a plan by the IHS to bring the facility in compliance with those standards.

Additionally, it is the intent of the Committee that the Indian Health Service facilities cooperate fully with the Medicare and Medicaid programs in providing the cost data necessary for calculating reimbursement.

Public Law 94-455 (H.R. 10612)
October 4, 1976, Tax Reform
Act of 1976.

PUBLIC LAW 94-455
94TH CONGRESS
TAX REFORM ACT OF 1976

Public Law 94-455
94th Congress

An Act

Oct. 4, 1976

To reform the tax laws of the United States.

[H.R. 10612]

Tax Reform
Act of 1976.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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Sec. 1. Table of contents.

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TITLE I—SHORT TITLE AND AMENDMENT OF 1954 CODE

SEC. 101. SHORT TITLE.

26 USC 1 note.

This Act may be cited as the “Tax Reform Act of 1976”.

SEC. 102. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1.

TITLE II—AMENDMENTS RELATED TO TAX SHELTERS

SEC. 201. CAPITALIZATION AND AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

“SEC. 189. AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

26 USC 189.

“(a) CAPITALIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.—Except as otherwise provided in this section or in section 266 (relating to carrying charges), in the case of an individual, an electing small business corporation (within the meaning of section 1371(b)), or a personal holding company (within the meaning of section 542), no deduction shall be allowed for real property construction period interest and taxes.

“(b) AMORTIZATION OF AMOUNTS CHARGED TO CAPITAL ACCOUNT.—Any amount paid or accrued which would (but for subsection (a)) be allowable as a deduction for the taxable year shall be allowable for such taxable year and each subsequent amortization year in accordance with the following table:

If the amount is paid or accrued in a taxable year beginning in—			The percentage of such amount allowable for each amortization year shall be the following percentage of such amount
Nonresidential real property	Residential real property (other than low-income housing)	Low-income housing	
1976	1978	1982	see subsection (f)
1977	1979	1983	25
1978	1980	1984	20
1979	1981	1985	16 $\frac{2}{3}$
1980	1982	1986	14 $\frac{2}{3}$
1981	1983	1987	12 $\frac{1}{2}$
after 1981	after 1983	after 1987	11 $\frac{1}{6}$
			10

“(c) AMORTIZATION YEAR.—

“(1) IN GENERAL.—For purposes of this section, the term ‘amortization year’ means the taxable year in which the amount is paid or accrued, and each taxable year thereafter (beginning with the taxable year after the taxable year in which paid or accrued or, if later, the taxable year in which the real property is ready to be placed in service or is ready to be held for sale) until the full amount has been allowable as a deduction (or until the property is sold or exchanged).

“(2) RULES FOR SALES AND EXCHANGES.—For purposes of paragraph (1)—

“(A) PROPORTION OF PERCENTAGE ALLOWED.—For the amortization year in which the property is sold or exchanged, a proportionate part of the percentage allowable for such year (determined without regard to the sale or exchange) shall be allowable. If the real property is subject to an allowance for depreciation, the proportion shall be determined in accordance with the convention used for depreciation purposes with respect to such property. In the case of all other real property, under regulations prescribed by the Secretary, the proportion shall be based on that proportion of the amortization year which elapsed before the sale or exchange.

“(B) UNAMORTIZED BALANCE.—In the case of a sale or exchange of the property, the portion of the amount not allowable shall be treated as an adjustment to basis under section 1016 for purposes of determining gain or loss.

“(C) CERTAIN EXCHANGES.—An exchange or transfer after which the property received has a basis determined in whole or in part by reference to the basis of the property to which the amortizable construction period interest and taxes relate, shall not be treated as an exchange.

“(d) CERTAIN RESIDENTIAL PROPERTY EXCLUDED.—This section shall not apply to any real property acquired, constructed, or carried if such property is not, and cannot reasonably be expected to be, held in a trade or business or in an activity conducted for profit.

“(e) DEFINITIONS.—For purposes of this section—

“(1) CONSTRUCTION PERIOD INTEREST AND TAXES.—The term ‘construction period interest and taxes’ means all—

“(A) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, and

“(B) real property taxes, to the extent such interest and taxes are attributable to the construction period for such property and would be allowable as a deduction under this chapter for the taxable year in which paid or accrued (determined without regard to this section).

“(2) CONSTRUCTION PERIOD.—The term ‘construction period’, when used with respect to any real property, means the period—

“(A) beginning on the date on which construction of the building or other improvement begins, and

“(B) ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale.

“(3) NONRESIDENTIAL REAL PROPERTY.—The term ‘nonresidential real property’ means real property which is neither residential real property nor low-income housing.

“(4) RESIDENTIAL REAL PROPERTY.—The term ‘residential real property’ means property which is or can reasonably be expected to be—

“(A) residential rental property as defined in section 167(j) (2) (B), or

“(B) real property described in section 1221(1) held for sale as dwelling units (within the meaning of section 167(k) (3) (C)).

“(5) LOW-INCOME HOUSING.—The term ‘low-income housing’ means property described in clause (i), (ii), (iii), or (iv) of section 1250(a) (1) (B).

26 USC 1016.

“(f) **TRANSITIONAL RULE FOR 1976.**—In the case of amounts paid or accrued by the taxpayer in a taxable year beginning in 1976, the percentage of such amount allowable under this section for—

- “(1) the taxable year beginning in 1976 shall be 50 percent, and
- “(2) each amortization year thereafter shall be 16 $\frac{2}{3}$ percent.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such part VI is amended by adding at the end thereof the following new item:

“Sec. 189. Amortization of real property construction period interest and taxes.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply—

26 USC 189
note.

(1) in the case of nonresidential real property, if the construction period begins after December 31, 1975,

(2) in the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and

(3) in the case of low-income housing, to taxable years beginning after December 31, 1981.

For purposes of this subsection, the terms “nonresidential real property”, “residential real property (other than low-income housing)”, “low-income housing”, and “construction period” have the same meaning as when used in section 189 of the Internal Revenue Code of 1954 (as added by subsection (a) of this section).

Definitions.

SEC. 202. RECAPTURE OF DEPRECIATION ON REAL PROPERTY.

(a) **IN GENERAL.**—Subsection (a) of section 1250 (relating to gain from dispositions of certain depreciable realty) is amended to read as follows:

26 USC 1250.

“(a) **GENERAL RULE.**—Except as otherwise provided in this section—

“(1) **ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1975.**—

“(A) **IN GENERAL.**—If section 1250 property is disposed of after December 31, 1975, then the applicable percentage of the lower of—

“(i) that portion of the additional depreciation (as defined in subsection (b) (1) or (4)) attributable to periods after December 31, 1975, in respect of the property, or

“(ii) the excess of the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such property (in the case of any other disposition), over the adjusted basis of such property, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(B) **APPLICABLE PERCENTAGE.**—For purposes of subparagraph (A), the term ‘applicable percentage’ means—

“Applicable
percentage.”

“(i) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of State or local laws and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

26 USC 1715l,
1715z-1.

42 USC 1408.

26 USC 1250.

“(ii) in the case of dwelling units which, on the average, were held for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under the provisions of State or local law authorizing similar levels of subsidy for lower-income families, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

“(iii) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property was placed in service;

“(iv) in the case of section 1250 property with respect to which a loan is made or insured under title V of the Housing Act of 1949, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months; and

“(v) in the case of all other section 1250 property, 100 percent.

In the case of a building (or a portion of a building devoted to dwelling units), if, on the average, 85 percent or more of the dwelling units contained in such building (or portion thereof) are units described in clause (ii), such building (or portion thereof) shall be treated as property described in clause (ii). Clauses (i), (ii), and (iv) shall not apply with respect to the additional depreciation described in subsection (b) (4).

“(2) ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1969, AND BEFORE JANUARY 1, 1976.—

“(A) IN GENERAL.—If section 1250 property is disposed of after December 31, 1969, and the amount determined under paragraph (1) (A) (ii) exceeds the amount determined under paragraph (1) (A) (i), then the applicable percentage of the lower of—

“(i) that portion of the additional depreciation attributable to periods after December 31, 1969, and before January 1, 1976, in respect of the property, or

“(ii) the excess of the amount determined under paragraph (1) (A) (ii) over the amount determined under paragraph (1) (A) (i),

shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term ‘applicable percentage’ means—

“(i) in the case of section 1250 property disposed of pursuant to a written contract which was, on July 24, 1969, and at all times thereafter, binding on the owner of the property, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months;

“(ii) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d) (3) or 236 of the National Housing Act, or housing financed

or assisted by direct loan or tax abatement under similar provisions of State or local laws, and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months;

“(iii) in the case of residential rental property (as defined in section 167(j)(2)(B)) other than that covered by clauses (i) and (ii), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

“(iv) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property was placed in service; and

“(v) in the case of all other section 1250 property, 100 percent.

Clauses (i), (ii), and (iii) shall not apply with respect to the additional depreciation described in subsection (b)(4).

“(3) ADDITIONAL DEPRECIATION BEFORE JANUARY 1, 1970.—

“(A) IN GENERAL.—If section 1250 property is disposed of after December 31, 1963, and the amount determined under paragraph (1)(A)(ii) exceeds the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i), then the applicable percentage of the lower of—

“(i) that portion of the additional depreciation attributable to periods before January 1, 1970, in respect of the property, or

“(ii) the excess of the amount determined under paragraph (1)(A)(ii) over the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i), shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term ‘applicable percentage’ means 100 percent minus 1 percentage point for each full month the property was held after the date on which the property was held for 20 full months.”

“Applicable percentage.”

(b) PROPERTY DISPOSED OF PURSUANT TO FORECLOSURE PROCEEDINGS.—Subsection (d) of section 1250 (relating to exceptions and limitations) is amended by adding at the end thereof the following new paragraph:

26 USC 1250.

“(10) FORECLOSURE DISPOSITIONS.—If any section 1250 property is disposed of by the taxpayer pursuant to a bid for such property at foreclosure or by operation of an agreement or of process of law after there was a default on indebtedness which such property secured, the applicable percentage referred to in paragraph (1)(B), (2)(B), or (3)(B) of subsection (a), as the case may be, shall be determined as if the taxpayer ceased to hold such property on the date of the beginning of the proceedings pursuant to which the disposition occurred, or, in the event there are no proceedings, such percentage shall be determined as if the taxpayer ceased to hold such property on the date, determined under regulations prescribed by the Secretary, on which

such operation of an agreement or process of law, pursuant to which the disposition occurred, began.”

(c) CONFORMING AMENDMENTS.—

26 USC 1250.

(1) AMENDMENT OF SECTION 1250(f)(2).—Paragraph (2) of section 1250(f) (relating to special rule for property which is substantially improved) is amended to read as follows:

“(2) ORDINARY INCOME ATTRIBUTABLE TO AN ELEMENT.—For purposes of paragraph (1), the amount taken into account for any element shall be the sum of a series of amounts determined for the periods set forth in subsection (a), with the amount for any such period being determined by multiplying—

“(A) the amount which bears the same ratio to the lower of the amounts specified in clause (i) or (ii) of subsection (a)(1)(A), in clause (i) or (ii) of subsection (a)(2)(A), or in clause (i) or (ii) of subsection (a)(3)(A), as the case may be, for the section 1250 property as the additional depreciation for such element attributable to such period bears to the sum of the additional depreciation for all elements attributable to such period, by

“(B) the applicable percentage for such element for such period.

For purposes of this paragraph, determinations with respect to any element shall be made as if it were a separate property.”

(2) AMENDMENT OF SECTION 1250(g)(2).—Paragraph (2) of section 1250(g) (relating to special rules for qualified low-income housing) is amended to read as follows:

“(2) ORDINARY INCOME ATTRIBUTABLE TO AN ELEMENT.—For purposes of paragraph (1), the amount taken into account for any element shall be determined in a manner similar to that provided by subsection (f)(2).”

26 USC 167.

(3) AMENDMENT OF SECTION 167(e)(3).—Paragraph (3) of section 167(e) (relating to change in depreciation method with respect to section 1250 property) is amended by striking out “beginning after July 24, 1969,” and inserting in lieu thereof “beginning after December 31, 1975.”

26 USC 1250
note.

(d) EFFECTIVE DATE.—The amendments made by this section (other than subsection (b)) shall apply for taxable years ending after December 31, 1975. The amendment made by subsection (b) shall apply with respect to proceedings (and to operations of law) referred to in section 1250(d)(10) of the Internal Revenue Code of 1954 which begin after December 31, 1975.

SEC. 203. AMENDMENT OF SECTION 167(k).

26 USC 167.

(a) GENERAL RULE.—Section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended—

(1) by striking out “January 1, 1976,” in paragraph (1) and inserting in lieu thereof “January 1, 1978”;

(2) by striking out “\$15,000” in paragraph (2)(A) and inserting in lieu thereof “\$20,000”;

(3) by striking out “the policies of the Housing and Urban Development Act of 1968” in paragraph (3)(B) and inserting in lieu thereof “the Leased Housing Program under section 8 of the United States Housing Act of 1937”; and

(4) by adding the following new subparagraph at the end of paragraph (3):

“(D) REHABILITATION EXPENDITURES INCURRED.—Rehabilitation expenditures incurred pursuant to a binding con-

tract entered into before January 1, 1978, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1978, shall be deemed incurred before January 1, 1978.”

26 USC 167
note.

(b) **EFFECTIVE DATE.**—The amendments made by paragraphs (1), (3), and (4) of subsection (a) shall apply to expenditures paid or incurred after December 31, 1975, and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978. The amendment made by paragraph (2) of subsection (a) shall apply to expenditures incurred after December 31, 1975.

SEC. 204. LIMITATIONS ON DEDUCTIONS FOR EXPENSES.

(a) **IN GENERAL.**—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction is taken) is amended by adding at the end thereof the following new section:

“SEC. 465. DEDUCTIONS LIMITED TO AMOUNT AT RISK IN CASE OF CERTAIN ACTIVITIES.

26 USC 465.

“(a) **GENERAL RULE.**—In the case of a taxpayer (other than a corporation which is neither an electing small business corporation (as defined in section 1371(b)) nor a personal holding company (as defined in section 542)) engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subsection (b)) for such activity at the close of the taxable year. Any loss from such activity not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year.

“(b) **AMOUNTS CONSIDERED AT RISK.**—

“(1) **IN GENERAL.**—For purposes of this section, a taxpayer shall be considered at risk for an activity with respect to amounts including—

“(A) the amount of money and the adjusted basis of other property contributed by the taxpayer to the activity, and

“(B) amounts borrowed with respect to such activity (as determined under paragraph (2)).

“(2) **BORROWED AMOUNTS.**—For purposes of this section, a taxpayer shall be considered at risk with respect to amounts borrowed for use in an activity to the extent that he—

“(A) is personally liable for the repayment of such amounts, or

“(B) has pledged property, other than property used in such activity, as security for such borrowed amount (to the extent of the net fair market value of the taxpayer’s interest in such property).

No property shall be taken into account as security if such property is directly or indirectly financed by indebtedness which is secured by property described in paragraph (1).

“(3) **CERTAIN BORROWED AMOUNTS EXCLUDED.**—For purposes of paragraph (1)(B), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who—

“(A) has an interest (other than an interest as a creditor) in such activity, or

“(B) has a relationship to the taxpayer specified within any one of the paragraphs of section 267(b).

“(4) EXCEPTION.—Notwithstanding any other provision of this section, a taxpayer shall not be considered at risk with respect to amounts protected against loss through nonrecourse financing, guarantees, stop loss agreements, or other similar arrangements.

“(5) AMOUNTS AT RISK IN SUBSEQUENT YEARS.—If in any taxable year the taxpayer has a loss from an activity to which this section applies, the amount with respect to which a taxpayer is considered to be at risk (within the meaning of subsection (b)) in subsequent taxable years with respect to that activity shall be reduced by that portion of the loss which (after the application of subsection (a)) is allowable as a deduction.

“(c) ACTIVITIES TO WHICH SECTION APPLIES.—

“(1) TYPES OF ACTIVITIES.—This section applies to any taxpayer engaged in the activity of—

“(A) holding, producing, or distributing motion picture films or video tapes,

“(B) farming (as defined in section 464(e)),

“(C) leasing any section 1245 property (as defined in section 1245(a)(3)), or

“(D) exploring for, or exploiting, oil and gas resources as a trade or business or for the production of income.

“(2) SEPARATE ACTIVITIES.—For purposes of this section, a taxpayer’s activity with respect to each—

“(A) film or video tape,

“(B) section 1245 property which is leased or held for leasing,

“(C) farm, or

“(D) oil and gas property (as defined under section 614), shall be treated as a separate activity. A partner’s interest in a partnership or a shareholder’s interest in an electing small business corporation shall be treated as a single activity to the extent that the partnership or an electing small business corporation is engaged in activities described in any subparagraph of this paragraph.

“(d) DEFINITION OF LOSS.—For purposes of this section, the term ‘loss’ means the excess of the deductions allowable under this chapter for the taxable year (determined without regard to this section) and allocable to an activity to which this section applies over the income received or accrued by the taxpayer during the taxable year from such activity.”

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 465. Deductions limited to amount at risk in case of certain activities.”

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1975. For purposes of this subsection, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred in such period.

(2) SPECIAL TRANSITIONAL RULES FOR MOVIES AND VIDEO TAPES.—

(A) IN GENERAL.—In the case of any activity described in section 465(c)(1)(A) of the Internal Revenue Code of

Post, p. 1536.
26 USC 1245.

26 USC 465
note.

1954, the amendments made by this section shall not apply *Ante*, p. 1531.
to—

(i) deductions for depreciation or amortization with respect to property the principal production of which began before September 11, 1975, and for the purchase of which there was on September 11, 1975, and at all times thereafter a binding contract, and

(ii) deductions attributable to producing or distributing property the principal production of which began before September 11, 1975.

(B) EXCEPTION FOR CERTAIN AGREEMENTS WHERE PRINCIPAL PHOTOGRAPHY BEGIN BEFORE 1976.—In the case of any activity described in section 465(c)(1)(A) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1975, if—

(i) on September 10, 1975, there was an agreement with the director or a principal motion picture star, or on or before September 10, 1975, there had been expended (or committed to the production) an amount not less than the lower of \$100,000 or 10 percent of the estimated costs of producing the film, and

(ii) the production takes place in the United States. Subparagraph (A) shall apply only to taxpayers who held their interests on September 10, 1975. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1975.

(3) SPECIAL TRANSITIONAL RULES FOR LEASING ACTIVITIES.—

(A) RULE FOR LEASES OTHER THAN OPERATING LEASES.—In the case of any activity described in section 465(c)(1)(B) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply with respect to—

(i) leases entered into before January 1, 1976, and

(ii) leases where the property was ordered by the lessor or lessee before January 1, 1976.

(B) HOLDING OF INTERESTS FOR PURPOSES OF SUBPARAGRAPH (A).—Subparagraph (A) shall apply only to taxpayers who held their interests in the property on December 31, 1975.

(C) SPECIAL RULE FOR OPERATING LEASES.—In the case of a lease described in section 46(e)(3)(B) of the Internal Revenue Code of 1954—

(i) subparagraph (A) shall be applied by substituting “May 1, 1976” for “January 1, 1976” each place it appears therein, and

(ii) subparagraph (B) shall be applied by substituting “April 30, 1976” for “December 31, 1975”.

SEC. 205. GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY.

(a) RECAPTURE RULES.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

“SEC. 1254. GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY. 26 USC 1254.

“(a) GENERAL RULE.—

“(1) ORDINARY INCOME.—If oil or gas property is disposed of after December 31, 1975, the lower of—

26 USC 263.

“(A) the aggregate amount of expenditures after December 31, 1975, which are allocable to such property and which have been deducted as intangible drilling and development costs under section 263(c) by the taxpayer or any other person and which (but for being so deducted) would be reflected in the adjusted basis of such property, adjusted as provided in paragraph (4), or

“(B) the excess of—

“(i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of the interest (in the case of any other disposition), over

“(ii) the adjusted basis of such interest, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(2) DISPOSITION OF PORTION OF PROPERTY.—For purposes of paragraph (1)—

“(A) In the case of the disposition of a portion of an oil or gas property (other than an undivided interest), the entire amount of the aggregate expenditures described in paragraph (1) (A) with respect to such property shall be treated as allocable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

“(B) In the case of the disposition of an undivided interest in an oil or gas property (or a portion thereof), a proportionate part of the expenditures described in paragraph (1) (A) with respect to such property shall be treated as allocable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

This paragraph shall not apply to any expenditures to the extent the taxpayer establishes to the satisfaction of the Secretary that such expenditures do not relate to the portion (or interest therein) disposed of.

“Oil or gas property.”

“(3) OIL OR GAS PROPERTY.—The term ‘oil or gas property’ means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1) (A) are properly chargeable.

“(4) SPECIAL RULE FOR PARAGRAPH (1) (A).—In applying paragraph (1) (A), the amount deducted for intangible drilling and development costs and allocable to the interest disposed of shall be reduced by the amount (if any) by which the deduction for depletion under section 611 with respect to such interest would have been increased if such costs incurred (after December 31, 1975) had been charged to capital account rather than deducted.

“(b) SPECIAL RULES UNDER REGULATIONS.—Under regulations prescribed by the Secretary—

“(1) rules similar to the rules of subsection (g) of section 617 and to the rules of subsections (b) and (c) of section 1245 shall be applied for purposes of this section; and

“(2) in the case of the sale or exchange of stock in an electing small business corporation (as defined in section 1371 (b)), rules similar to the rules of section 751 shall be applied to that portion of the excess of the amount realized over the adjusted basis of the stock which is attributable to expenditures referred to in subsection (a) (1) (A) of this section.”

(b) **PARTNERSHIPS.**—Section 751(c) (relating to definition of unrealized receivables) is amended by striking out “and farm land (as defined in section 1252(a))” and inserting in lieu thereof “farm land (as defined in section 1252(a)), and an oil or gas property (described in section 1254)”, and by striking out “or 1252(a)” and inserting in lieu thereof “1252(a), or 1254(a)”. 26 USC 751.

(c) **TECHNICAL AMENDMENTS.**—

(1) The following provisions are each amended by striking out “or 1252(a)” and inserting in lieu thereof “1252(a), or 1254(a)”—

(A) the second sentence of section 170(e) (1); 26 USC 170.

(B) section 301(b) (1) (B) (ii); 26 USC 301.

(C) section 301(d) (2) (B); 26 USC 312.

(D) section 312(c) (3); and 26 USC 453.

(E) section 453(d) (4) (B). 26 USC 341.

(2) Section 341(e) (12) is amended by striking out “and 1252(a)” and inserting in lieu thereof “1252(a), and 1254(a)”. 26 USC 341.

(3) Section 163(d) (3) (A) (iii) is amended by striking out “and 1250” and inserting in lieu thereof “1250, and 1254”. 26 USC 163.

(d) **CLERICAL AMENDMENT.**—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 1254. Gain from disposition of interest in oil or gas property.”

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1975. 26 USC 1254 note.

SEC. 206. AMENDMENTS TO FARM LOSS RECAPTURE RULES.

(a) **TERMINATION OF ADDITIONS TO EXCESS DEDUCTIONS ACCOUNT.**—Paragraph (2) of section 1251(b) (relating to additions to excess deductions account) is amended by adding at the end thereof the following new subparagraph: 26 USC 1251.

“(E) **TERMINATION OF ADDITIONS.**—No amount shall be added to the excess deductions account for any taxable year beginning after December 31, 1975.”

(b) **CERTAIN REORGANIZATIONS.**—

(1) Subparagraph (A) of section 1251(b) (5) is amended to read as follows:

“(A) **CERTAIN CORPORATE TRANSACTIONS.**—

“(i) In the case of a transfer described in subsection (d) (3) to which section 371(a), 374(a), or 381 applies, the acquiring corporation shall succeed to and take into account as of the close of the day of distribution or transfer, the excess deductions account of the transferor.

“(ii) In the case of a transfer which is described in subsection (d) (3), which is in connection with a reorganization described in section 368(a) (1) (D), and which is not described in clause (i), the transferee corporation shall be deemed to have an excess deductions account in an amount equal to the amount in the excess deductions account of the transferor. The transferor’s excess deductions account shall not be reduced by reason of the preceding sentence.”

(2) Paragraph (3) of section 1251(b) is amended by adding at the end thereof the following:

“In the case of a corporation which has made or received a transfer described in clause (ii) of paragraph (5) (A), subtractions from the excess deductions account shall be determined, in such

manner as the Secretary shall prescribe, applying this paragraph to the farm net income, and the amounts described in subparagraph (B), of the transferor corporation and the transferee corporation on an aggregate basis.”.

26 USC 1251
note.

(3) The amendments made by this subsection shall apply to transfers occurring after December 31, 1975.

SEC. 207. LIMITATIONS ON DEDUCTIONS IN CASE OF FARMING SYNDICATES; CAPITALIZATION OF CERTAIN ORCHARD AND VINEYARD EXPENSES; AND METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING.

(a) PREPAID EXPENSES.—

(1) **IN GENERAL.**—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken) is amended by inserting after section 463 the following new section:

26 USC 464.

“SEC. 464. LIMITATIONS ON DEDUCTIONS IN CASE OF FARMING SYNDICATES.

“(a) **GENERAL RULE.**—In the case of any farming syndicate (as defined in subsection (c)), a deduction (otherwise allowable under this chapter) for amounts paid for feed, seed, fertilizer, or other similar farm supplies shall only be allowed for the taxable year in which such feed, seed, fertilizer, or other supplies are actually used or consumed, or, if later, for the taxable year for which allowable as a deduction (determined without regard to this section).

“(b) **CERTAIN POULTRY EXPENSES.**—In the case of any farming syndicate (as defined in subsection (c))—

“(1) the cost of poultry (including egg-laying hens and baby chicks) purchased for use in a trade or business (or both for use in a trade or business and for sale) shall be capitalized and deducted ratably over the lesser of 12 months or their useful life in the trade or business, and

“(2) the cost of poultry purchased for sale shall be deducted for the taxable year in which the poultry is sold or otherwise disposed of.

“(c) FARMING SYNDICATE DEFINED.—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘farming syndicate’ means—

“(A) a partnership or any other enterprise other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) engaged in the trade or business of farming, if at any time interests in such partnership or enterprise have been offered for sale in any offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale, or

“(B) a partnership or any other enterprise other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) engaged in the trade or business of farming, if more than 35 percent of the losses during any period are allocable to limited partners or limited entrepreneurs.

“(2) **HOLDINGS ATTRIBUTABLE TO ACTIVE MANAGEMENT.**—For purposes of paragraph (1)(B), the following shall be treated as an interest which is not held by a limited partner or a limited entrepreneur:

“(A) in the case of any individual who has actively participated (for a period of not less than 5 years) in the man-

agement of any trade or business of farming, any interest in a partnership or other enterprise which is attributable to such active participation,

“(B) in the case of any individual whose principal residence is on a farm, any partnership or other enterprise engaged in the trade or business of farming such farm,

“(C) in the case of any individual who is actively participating in the management of any trade or business of farming or who is an individual who is described in subparagraph (A) or (B), any participation in the further processing of livestock which was raised in such trade or business (or in the trade or business referred to in subparagraph (A) or (B)),

“(D) in the case of an individual whose principal business activity involves active participation in the management of a trade or business of farming, any interest in any other trade or business of farming, and”;

“(E) any interest held by a member of the family (within the meaning of section 267(c)(4)) of a grandparent of an individual described in subparagraph (A), (B), (C), or (D) if the interest in the partnership or the enterprise is attributable to the active participation of the individual described in subparagraph (A), (B), (C), or (D).

26 USC 267.

For purposes of subparagraph (A), where one farm is substituted for or added to another farm, both farms shall be treated as one farm.

“(d) EXCEPTIONS.—Subsection (a) shall not apply to—

“(1) any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought, or

“(2) any amount required to be charged to capital account under section 278.

“(e) DEFINITIONS.—For purposes of this section—

“(1) FARMING.—The term ‘farming’ means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees (other than trees bearing fruit or nuts) shall not be treated as an agricultural or horticultural commodity.

“(2) LIMITED ENTREPRENEUR.—The term ‘limited entrepreneur’ means a person who—

“(A) has an interest in an enterprise other than as a limited partner, and

“(B) does not actively participate in the management of such enterprise.”

(2) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by inserting after the item relating to section 463 the following new item:

“Sec. 464. Limitations on deductions in case of farming syndicates.”

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—In the case of a farming syndicate in existence on December 31, 1975, and for which there

26 USC 464
note.

was no change of membership throughout its taxable year beginning in 1976, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(b) ORCHARD AND VINEYARD EXPENSES.—

26 USC 278.

(1) IN GENERAL.—Section 278 (relating to capital expenditures incurred in planting and developing citrus and almond groves) is amended by striking out subsection (b) and by inserting in lieu thereof the following:

“(b) FARMING SYNDICATES.—Except as provided in subsection (c), in the case of any farming syndicate (as defined in section 464(c)) engaged in planting, cultivating, maintaining, or developing a grove, orchard, or vineyard in which fruit or nuts are grown, any amount—

“(1) which would be allowable as a deduction but for the provisions of this subsection,

“(2) which is attributable to the planting, cultivation, maintenance, or development of such grove, orchard, or vineyard, and

“(3) which is incurred in a taxable year before the first taxable year in which such grove, orchard, or vineyard bears a crop or yield in commercial quantities,

shall be charged to capital account.

“(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply to amounts allowable as deductions (without regard to this section) attributable to a grove, orchard, or vineyard which was replanted after having been lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty.”

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 278 is amended to read as follows:

“SEC. 278. CAPITAL EXPENDITURES INCURRED IN PLANTING AND DEVELOPING CITRUS AND ALMOND GROVES; CERTAIN CAPITAL EXPENDITURES OF FARMING SYNDICATES.”

(B) Subsection (a) of section 278 (relating to general rule) is amended by striking out “subsection (b)” and inserting in lieu thereof “subsection (c)”.

26 USC 278
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1975. The amendments made by this subsection shall not apply in the case of a grove, orchard, or vineyard referred to in the amendment made by subsection (b)(1) which was planted or replanted on or before December 31, 1975. For purposes of the preceding sentence, a tree or vine which, on or before December 31, 1975, was planted at a place other than the grove, orchard, or vineyard of the taxpayer but which, on such date, was owned by the taxpayer (or with respect to which the taxpayer had a binding contract to purchase) shall be treated as planted on December 31, 1975, in the grove, orchard, or vineyard of the taxpayer.

(c) METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING.—

(1) GENERAL RULE.—

(A) Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

26 USC 447.

“SEC. 447. METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING.

“(a) GENERAL RULE.—Except as otherwise provided by law, the taxable income from farming of—

“(1) a corporation engaged in the trade or business of farming, or

“(2) a partnership engaged in the trade or business of farming, if a corporation is a partner in such partnership, shall be computed on an accrual method of accounting and with the capitalization of preproductive expenses described in subsection (b). This section shall not apply to the trade or business of operating a nursery or to the raising or harvesting of trees (other than fruit and nut trees).

“(b) PREPRODUCTIVE PERIOD EXPENSES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘preproductive period expenses’ means any amount which is attributable to crops, animals, or any other property having a crop or yield during the preproductive period of such property.

“Preproductive period expenses.”

“(2) EXCEPTIONS.—Paragraph (1) shall not apply—

“(A) to taxes and interest, and

“(B) to any amount incurred on account of fire, storm, flood, or other casualty or on account of disease or drought.

“(3) PREPRODUCTIVE PERIOD DEFINED.—For purposes of this subsection, the term ‘preproductive period’ means—

“(A) in the case of property having a useful life of more than 1 year which will have more than 1 crop or yield, the period before the disposition of the first such marketable crop or yield, or

“(B) in the case of any other property, the period before such property is disposed of.

For purposes of this section, the use by the taxpayer in the trade or business of farming of any supply produced in such trade or business shall be treated as a disposition.

“(c) EXCEPTION FOR SMALL BUSINESS AND FAMILY CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

“(1) an electing small business corporation (within the meaning of section 1371 (b)),

26 USC 1371.

“(2) a corporation of which at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of the corporation, are owned by members of the same family, or

“(3) a corporation the gross receipts of which meet the requirements of subsection (e).

“(d) MEMBERS OF THE SAME FAMILY.—For purposes of subsection (c) (2)—

“(1) the members of the same family are an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants or any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing,

“(2) stock owned, directly or indirectly, by or for a partnership or trust shall be treated as owned proportionately by its partners or beneficiaries, and

“(3) if 50 percent or more in value of the stock in a corporation (hereinafter in this paragraph referred to as ‘first corporation’) is owned, directly or through paragraph (2), by or for members of the same family, such members shall be considered as owning each class of stock in a second corporation (or a wholly owned

subsidiary of such second corporation) owned, directly or indirectly, by or for the first corporation, in that proportion which the value of the stock in the first corporation which such members so own bears to the value of all the stock in the first corporation. For purposes of paragraph (1), individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

26 USC 1563.

“(e) CORPORATIONS HAVING GROSS RECEIPTS OF \$1,000,000 OR LESS.—A corporation meets the requirements of this subsection if, for each prior taxable year beginning after December 31, 1975, such corporation (and any predecessor corporation) did not have gross receipts exceeding \$1,000,000. For purposes of the preceding sentence, all corporations which are members of a controlled group of corporations (within the meaning of section 1563(a)) shall be treated as one corporation.

“(f) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

“(1) such change shall be treated as having been made with the consent of the Secretary,

“(2) for purposes of section 481(a)(2), such change shall be treated as a change not initiated by the taxpayer, and

“(3) under regulations prescribed by the Secretary, the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

“(g) CERTAIN ANNUAL ACCRUAL ACCOUNTING METHODS.—

“(1) IN GENERAL.—If—

“(A) for its 10 taxable years ending with its first taxable year beginning after December 31, 1975, a corporation used an annual accrual method of accounting with respect to its trade or business of farming,

“(B) such corporation raises crops which are harvested not less than 12 months after planting, and

“(C) such corporation has used such method of accounting for all taxable years intervening between its first taxable year beginning after December 31, 1975, and the taxable year, such corporation may continue to employ such method of accounting for the taxable year with respect to its trade or business of farming.

“(2) ANNUAL ACCRUAL METHOD OF ACCOUNTING DEFINED.—For purposes of paragraph (1), the term ‘annual accrual method of accounting’ means a method under which revenues, costs, and expenses are computed on an accrual method of accounting and the preproductive expenses incurred during the taxable year are charged to harvested crops or deducted in determining the taxable income for such years.

“(3) CERTAIN REORGANIZATIONS.—For purposes of this subsection, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its taxable income on an annual accrual method of accounting during the period for which the transferor corporation computed its taxable income from such trade or business on an annual accrual method.”

(B) The table of sections for such subpart A is amended by adding at the end thereof the following:

“Sec. 447. Method of accounting for corporations engaged in farming.”

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1976. 26 USC 447 note.

(3) ELECTION TO CHANGE FROM STATIC VALUE METHOD TO ACCRUAL METHOD OF ACCOUNTING.— 26 USC 447 note.

(A) IN GENERAL.—If—

(i) a corporation has computed its taxable income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops for the 10 taxable years ending with its first taxable year beginning after December 31, 1975,

(ii) such corporation raises crops which are harvested not less than 12 months after planting, and

(iii) such corporation elects, within one year after the date of the enactment of this Act and in such manner as the Secretary of the Treasury or his delegate prescribes, to change to the annual accrual method of accounting (within the meaning of section 447(g) (2) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1976,

Ante, p. 1538.

such change shall be treated as having been made with the consent of the Secretary of the Treasury, and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of the Internal Revenue Code of 1954 to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

(B) COORDINATION WITH SECTION 447 OF THE CODE.—A corporation which elects under subparagraph (A) to change to the annual accrual method of accounting shall, for purposes of section 447(g) of the Internal Revenue Code of 1954, be deemed to be a corporation which has computed its taxable income on an annual accrual method of accounting for its 10 taxable years ending with its first taxable year beginning after December 31, 1975.

(C) CERTAIN CORPORATE REORGANIZATIONS.—For purposes of this paragraph, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its taxable income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops during the period for which the transferor corporation computed its taxable income from such trade or business on such accrual and static value method.

SEC. 208. TREATMENT OF PREPAID INTEREST.

(a) GENERAL RULE.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsection: 26 USC 461.

“(g) PREPAID INTEREST.—

“(1) IN GENERAL.—If the taxable income of the taxpayer is computed under the cash receipts and disbursements method of accounting, interest paid by the taxpayer which, under regulations prescribed by the Secretary, is properly allocable to any period—

“(A) with respect to which the interest represents a charge for the use or forbearance of money, and

“(B) which is after the close of the taxable year in which paid,

shall be charged to capital account and shall be treated as paid in the period to which so allocable.

“(2) EXCEPTION.—This subsection shall not apply to points paid in respect of any indebtedness incurred in connection with the purchase or improvement of, and secured by, the principal residence of the taxpayer to the extent that, under regulations prescribed by the Secretary, such payment of points is an established business practice in the area in which such indebtedness is incurred, and the amount of such payment does not exceed the amount generally charged in such area.”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts paid after December 31, 1975, in taxable years ending after such date.

(2) CERTAIN AMOUNTS PAID BEFORE 1977.—The amendment made by subsection (a) shall not apply to amounts paid before January 1, 1977, pursuant to a binding contract or written loan commitment which existed on September 16, 1975 (and at all times thereafter), and which required prepayment of such amounts by the taxpayer.

SEC. 209. LIMITATION ON INTEREST DEDUCTION.

(a) IN GENERAL.—Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended—

(1) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

“(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount of investment interest (as defined in paragraph (3)(D)) otherwise allowable as a deduction under this chapter shall be limited, in the following order, to—

“(A) \$10,000 (\$5,000, in the case of a separate return by a married individual), plus

“(B) the amount of the net investment income (as defined in paragraph (3)(A)), plus the amount (if any) by which the deductions allowable under this section (determined without regard to this subsection) and sections 162, 164(a) (1) or (2), or 212 attributable to property of the taxpayer subject to a net lease exceeds the rental income produced by such property for the taxable year.

In the case of a trust, the \$10,000 amount specified in subparagraph (A) shall be zero.

“(2) CARRYOVER OF DISALLOWED INVESTMENT INTEREST.—The amount of disallowed investment interest for any taxable year shall be treated as investment interest paid or accrued in the succeeding taxable year.”;

(2) by adding at the end of paragraph (3)(A) the following new sentence: “If the taxpayer has investment interest for the

taxable year to which this subsection (as in effect before the Tax Reform Act of 1976) applies, the amount of the net investment income taken into account under this subsection shall be the amount of such income (determined without regard to this sentence) multiplied by a fraction the numerator of which is the excess of the investment interest for the taxable year over the investment interest to which such prior provision applies, and the denominator of which is the investment interest for the taxable year.”;

(3) by striking out “limitations in paragraphs (1) and (2) (A)” in paragraph (3) (E) and inserting in lieu thereof “limitation in paragraph (1)”;

(4) by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(5) by adding at the end of paragraph (5) (as so redesignated) the following:

“For taxable years beginning after December 31, 1975, this paragraph shall be applied on an allocation basis rather than a specific item basis.”; and

(6) by adding at the end thereof the following new paragraph:

“(7) SPECIAL RULE WHERE TAXPAYER OWNS 50 PERCENT OR MORE OF ENTERPRISE.—

“(A) GENERAL RULE.—In the case of any 50 percent owned corporation or partnership, the \$10,000 figure specified in paragraph (1) shall be increased by the lesser of—

“(i) \$15,000, or

“(ii) the interest paid or accrued during the taxable year on investment indebtedness incurred or continued in connection with the acquisition of the interest in such corporation or partnership.

In the case of a separate return by a married individual, \$7,500 shall be substituted for the \$15,000 figure in clause (1).

“(B) OWNERSHIP REQUIREMENTS.—This paragraph shall apply with respect to indebtedness only if the taxpayer, his spouse, and his children own 50 percent or more of the total value of all classes of stock of the corporation or 50 percent or more of all capital interests in the partnership, as the case may be.”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

(2) INDEBTEDNESS INCURRED BEFORE SEPTEMBER 11, 1975.—In the case of indebtedness attributable to a specific item of property which—

(A) is for a specified term, and

(B) was incurred before September 11, 1975, or is incurred after September 10, 1975, pursuant to a written contract or commitment which on September 11, 1975, and at all times thereafter before the incurring of such indebtedness, is binding on the taxpayer,

the amendments made by this section shall not apply, but section 163(d) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) shall apply. For purposes of the preceding sentence, so much of the net investment income (as defined in section 163(d) (3) (A) of such Code) for any taxable year as

Ante, p. 1520.

26 USC 163
note.

Ante, p. 1542

is not taken into account under section 163(d) of such Code, as amended by this Act, by reason of the last sentence of section 163(d)(3)(A) of such Code, shall be taken into account for purposes of applying such section as in effect before the date of enactment of this Act with respect to interest on indebtedness referred to in the preceding sentence.

SEC. 210. AMORTIZATION OF PRODUCTION COST OF MOTION PICTURES, BOOKS, RECORDS, AND OTHER SIMILAR PROPERTY.

(a) **IN GENERAL.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

26 USC 280.

“SEC. 280. CERTAIN EXPENDITURES INCURRED IN PRODUCTION OF FILMS, BOOKS, RECORDS, OR SIMILAR PROPERTY.

“(a) **GENERAL RULE.**—Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371 (b)) or a personal holding company (as defined in section 542)) and except in the case of production costs which are charged to capital account, amounts attributable to the production of a film, sound recording, book, or similar property which are otherwise deductible under this chapter shall be allowed as deductions only in accordance with the provisions of subsection (b).

“(b) **PRORATION OF PRODUCTION COST OVER INCOME PERIOD.**—Amounts referred to in subsection (a) are deductible only for those taxable years ending during the period during which the taxpayer reasonably may be expected to receive substantially all of the income he will receive from any such film, sound recording, book, or similar property. The amount deductible for any such taxable year is an amount which bears the same ratio to the sum of all such amounts (attributable to such film, sound recording, book, or similar property) as the income received from the property for that taxable year bears to the sum of the income the taxpayer may reasonably be expected to receive during such period.

“(c) **DEFINITIONS.**—For purposes of this section—

“(1) **FILM.**—The term ‘film’ means any motion picture film or video tape.

“(2) **SOUND RECORDING.**—The term ‘sound recording’ means works that result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material objects, such as discs, tapes, or other phonorecordings, in which such sounds are embodied.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such part is amended by adding at the end thereof the following new item:

“Sec. 280. Certain expenditures incurred in production of films, books, records, or similar property.”

26 USC 280
note.

(c) **EFFECTIVE DATE.**—The amendment made by this section applies to amounts paid or incurred after December 31, 1975, with respect to property the principal production of which begins after December 31, 1975.

SEC. 211. CLARIFICATION OF DEFINITION OF PRODUCED FILM RENTS.

26 USC 543.

(a) **IN GENERAL.**—Subparagraph (B) of paragraph (5) of section 543(a) (defining produced film rents for purposes of personal holding company income) is amended by adding at the end thereof the following new sentence: “In the case of a producer who actively participates in the production of the film, such term includes an interest in the

proceeds or profits from the film, but only to the extent such interest is attributable to such active participation.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years ending on or after December 31, 1975.

26 USC 543
note.

SEC. 212. BASIS LIMITATION FOR AND RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS.

(a) **BASIS LIMITATIONS.**—

(1) **IN GENERAL.**—Part IV of subchapter O of chapter 1 (relating to special rules applicable to gain or loss on disposition of property) is amended by redesignating section 1056 as section 1057, and by inserting after section 1055 the following new section:

26 USC 1051.

“SEC. 1056. BASIS LIMITATION FOR PLAYER CONTRACTS TRANSFERRED IN CONNECTION WITH THE SALE OF A FRANCHISE.

26 USC 1056.

“(a) **GENERAL RULE.**—If a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of a contract for the services of an athlete, the basis of such contract in the hands of the transferee shall not exceed the sum of—

“(1) the adjusted basis of such contract in the hands of the transferor immediately before the transfer, plus

“(2) the gain (if any) recognized by the transferor on the transfer of such contract.

For purposes of this section, gain realized by the transferor on the transfer of such contract, but not recognized by reason of section 337(a), shall be treated as recognized to the extent recognized by the transferor's shareholders.

Post, p. 1772.

“(b) **EXCEPTIONS.**—Subsection (a) shall not apply—

“(1) to an exchange described in section 1031 (relating to exchange of property held for productive use or investment), and

“(2) to property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent (within the meaning of section 1014(a)).

“(c) **TRANSFEROR REQUIRED TO FURNISH CERTAIN INFORMATION.**—

Under regulations prescribed by the Secretary, the transferor shall, at the times and in the manner provided in such regulations, furnish to the Secretary and to the transferee the following information:

“(1) the amount which the transferor believes to be the adjusted basis referred to in paragraph (1) of subsection (a),

“(2) the amount which the transferor believes to be the gain referred to in paragraph (2) of subsection (a), and

“(3) any subsequent modification of either such amount.

To the extent provided in such regulations, the amounts furnished pursuant to the preceding sentence shall be binding on the transferor and on the transferee.

“(d) **PRESUMPTION AS TO AMOUNT ALLOCABLE TO PLAYER CONTRACTS.**—In the case of any sale or exchange described in subsection (a), it shall be presumed that not more than 50 percent of the consideration is allocable to contracts for the services of athletes unless it is established to the satisfaction of the Secretary that a specified amount in excess of 50 percent is properly allocable to such contracts. Nothing in the preceding sentence shall give rise to a presumption that an allocation of less than 50 percent of the consideration to contracts for the services of athletes is a proper allocation.”

(2) CLERICAL AMENDMENT.—The tables of sections for such part VI is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 1056. Basis limitation for player contracts transferred in connection with the sale of a franchise.

“Sec. 1057. Cross references.”

26 USC 1056
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection apply to sales or exchanges of franchises after December 31, 1975, in taxable years ending after such date.

26 USC 1245.

(b) RECAPTURE.—

(1) IN GENERAL.—Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by adding at the end thereof the following new paragraph:

“(4) SPECIAL RULE FOR PLAYER CONTRACTS.—

“(A) IN GENERAL.—For purposes of this section, if a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of any player contracts, the recomputed basis of such player contracts in the hands of the transferor shall be the adjusted basis of such contracts increased by the greater of—

“(i) the previously unrecaptured depreciation with respect to player contracts acquired by the transferor at the time of acquisition of such franchise, or

“(ii) the previously unrecaptured depreciation with respect to the player contracts involved in such transfer.

“Previously
unrecaptured
depreciation.”

“(B) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO INITIAL CONTRACTS.—For purposes of subparagraph (A) (i), the term ‘previously unrecaptured depreciation’ means the excess (if any) of—

“(i) the sum of the deduction allowed or allowable to the taxpayer transferor for the depreciation of any player contracts acquired by him at the time of acquisition of such franchise, plus the deduction allowed or allowable for losses with respect to such player contracts acquired at the time of such acquisition, over

“(ii) the aggregate of the amounts treated as ordinary income by reason of this section with respect to prior dispositions of such player contracts acquired upon acquisition of the franchise.

“Previously
unrecaptured
depreciation.”

“(C) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO CONTRACTS TRANSFERRED.—For purposes of subparagraph (A) (ii), the term ‘previously unrecaptured depreciation’ means—

“(i) the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer, over

“(ii) the aggregate of the amounts treated as ordinary income by reason of this section with respect to prior dispositions of such player contracts acquired upon acquisition of the franchise.

“Player
contract.”

“(D) PLAYER CONTRACT.—For purposes of this paragraph, the term ‘player contract’ means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in section 167.”

(2) **EFFECTIVE DATE.**—The amendment made by this subsection applies to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975. 26 USC 1245 note.

SEC. 213. CERTAIN PARTNERSHIP PROVISIONS.

(a) **DOLLAR LIMITATION WITH RESPECT TO ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE.**—Subsection (d) of section 179 (relating to additional first-year depreciation allowance for small business) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph: 26 USC 179.

“(8) **DOLLAR LIMITATION IN CASE OF PARTNERSHIPS.**—In the case of a partnership, the dollar limitation contained in the first sentence of subsection (b) shall apply with respect to the partnership and with respect to each partner.”

(b) **CLARIFICATION OF TREATMENT OF PARTNERSHIP SYNDICATION FEES, ETC.**—

(1) **IN GENERAL.**—Part I of subchapter K of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new section:

“SEC. 709. TREATMENT OF ORGANIZATION AND SYNDICATION FEES. 26 USC 709.

“(a) **GENERAL RULE.**—Except as provided in subsection (b), no deduction shall be allowed under this chapter to the partnership or to any partner for any amounts paid or incurred to organize a partnership or to promote the sale of (or to sell) an interest in such partnership.

“(b) **AMORTIZATION OF ORGANIZATION FEES.**—

“(1) **DEDUCTION.**—Amounts paid or incurred to organize a partnership may, at the election of the partnership (made in accordance with regulations prescribed by the Secretary), be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the partnership (beginning with the month in which the partnership begins business), or if the partnership is liquidated before the end of such 60-month period, such deferred expenses (to the extent not deducted under this section) may be deducted to the extent provided in section 165.

“(2) **ORGANIZATIONAL EXPENSES DEFINED.**—The organizational expenses to which paragraph (1) applies, are expenditures which—

“(A) are incident to the creation of the partnership;

“(B) are chargeable to capital account; and

“(C) are of a character which, if expended incident to the creation of a partnership having an ascertainable life, would be amortized over such life.”

(2) **CLERICAL AMENDMENT.**—The table of sections for such part is amended by adding at the end thereof the following:

“Sec. 709. Treatment of organization and syndication fees.”

(3) **DETERMINATION OF AMOUNTS CHARGEABLE TO CAPITAL ACCOUNT.**—Section 707(c) (relating to guaranteed payments) is amended by striking out “and section 162(a)” and inserting in lieu thereof “and, subject to section 263, for purposes of section 162(a)”. 26 USC 707.

(c) **ITEMS MUST BE ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST.**—

(1) **IN GENERAL.**—Subparagraph (B) of section 706(c) (2) (relating to disposition of less than entire interest) is amended 26 USC 706.

by striking out “or with respect to a partner whose interest is reduced” and inserting in lieu thereof “or with respect to a partner whose interest is reduced (whether by entry of a new partner, partial liquidation of a partner’s interest, gift, or otherwise)”.

26 USC 704.

(2) CERTAIN PROVISIONS OF SUBCHAPTER K MAY NOT BE OVERRIDDEN BY PARTNERSHIP AGREEMENT.—Subsection (a) of section 704 (relating to effect of partnership agreement) is amended by striking out “except as otherwise provided in this section” and inserting in lieu thereof “except as otherwise provided in this chapter”.

(3) CROSS REFERENCES.—

(A) Section 704 is amended by adding at the end thereof the following:

“(f) CROSS REFERENCE.—

“For rules in the case of the sale, exchange, liquidation, or reduction of a partner’s interest, see section 706(c)(2).”

26 USC 761.

(B) Section 761 (relating to terms defined) is amended by adding at the end thereof the following:

“(e) CROSS REFERENCE.—

“For rules in the case of the sale, exchange, liquidation, or reduction of a partner’s interest, see sections 704(b) and 706(c)(2).”

26 USC 704.

(d) DETERMINATION OF PARTNER’S DISTRIBUTIVE SHARE.—Subsection (b) of section 704 (relating to distributive share determined by income or loss ratio) is amended to read as follows:

“(b) DETERMINATION OF DISTRIBUTIVE SHARE.—A partner’s distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner’s interest in the partnership (determined by taking into account all facts and circumstances), if—

“(1) the partnership agreement does not provide as to the partner’s distributive share of income, gain, loss, deduction, or credit (or item thereof), or

“(2) the allocation to a partner under the agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect.”

(e) TREATMENT OF PARTNERSHIP LIABILITIES WITH RESPECT TO WHICH THE PARTNER IS NOT PERSONALLY LIABLE.—Section 704(d) (relating to limitation on allowance of losses) is amended by adding at the end thereof the following new sentences:

“For purposes of this subsection, the adjusted basis of any partner’s interest in the partnership shall not include any portion of any partnership liability with respect to which the partner has no personal liability. The preceding sentence shall not apply with respect to any activity to the extent that section 465 (relating to limiting deductions to amounts at risk in case of certain activities) applies, nor shall it apply to any partnership the principal activity of which is investing in real property (other than mineral property).”

Ante, p. 1531.

26 USC 709
note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply in the case of partnership taxable years beginning after December 31, 1975.

(2) SUBSECTION (e).—The amendment made by subsection (e) shall apply to liabilities incurred after December 31, 1976.

(3) **SECTION 709(b) OF THE CODE.**—Section 709(b) of the Internal Revenue Code of 1954 (as added by the amendment made by subsection (b)(1) of this section) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1976.

SEC. 214. SCOPE OF WAIVER OF STATUTE OF LIMITATIONS IN CASE OF ACTIVITIES NOT ENGAGED IN FOR PROFIT.

(a) **IN GENERAL.**—Subsection (e) of section 183 (relating to special rule for activities not engaged in for profit) is amended by adding at the end thereof the following new paragraph:

26 USC 183.

“(4) **TIME FOR ASSESSING DEFICIENCY ATTRIBUTABLE TO ACTIVITY.**—If a taxpayer makes an election under paragraph (1) with respect to an activity, the statutory period for the assessment of any deficiency attributable to such activity shall not expire before the expiration of 2 years after the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the last taxable year in the period of 5 taxable years (or 7 taxable years) to which the election relates. Such deficiency may be assessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such an assessment.”.

(b) **CROSS REFERENCE.**—Paragraph (2) of section 6212(c) (relating to restriction of further deficiency letters) is amended by adding at the end thereof the following new subparagraph:

Post, p. 1803.
26 USC 6212.

“(E) **Deficiency attributable to activities not engaged in for profit,** see section 183(e)(4).”.

Supra.
26 USC 183
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1969; except that such amendments shall not apply to any taxable year ending before the date of the enactment of this Act with respect to which the period for assessing a deficiency has expired before such date of enactment.

TITLE III—MINIMUM TAX AND MAXIMUM TAX

SEC. 301. MINIMUM TAX.

(a) **IN GENERAL.**—Subsection (a) of section 56 (relating to minimum tax for tax preferences) is amended to read as follows:

26 USC 56.

“(a) **GENERAL RULE.**—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 15 percent of the amount by which the sum of the items of tax preference exceeds the greater of—

“(1) \$10,000, or

“(2) the regular tax deduction for the taxable year (as determined under subsection (c)).”

Post, p. 1550.

(b) **CONFORMING CHANGES.**—

(1) Section 56(b) (relating to deferral of tax liability in case of certain net operating losses) is amended—

(A) by striking out “\$30,000” in paragraph (1)(B) and inserting in lieu thereof “\$10,000”, and

(B) by striking out “10 percent” in paragraphs (1) and (2) and inserting in lieu thereof “15 percent”.

26 USC 56.

(2) Section 56(c) (relating to tax carryovers) is amended to read as follows:

“(c) **REGULAR TAX DEDUCTION DEFINED.**—For purposes of this section, the term ‘regular tax deduction’ means an amount equal to one-half of (or in the case of a corporation, an amount equal to) the taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 72(m) (5) (B), 402(e), 408(f), 531, and 541), reduced by the sum of the credits allowable under—

“(1) section 33 (relating to foreign tax credit),

“(2) section 37 (relating to credit for the elderly),

“(3) section 38 (relating to investment credit),

“(4) section 40 (relating to expenses of work incentive program),

“(5) section 41 (relating to contributions to candidates for public office),

“(6) section 42 (relating to general tax credit),

“(7) section 44 (relating to purchase of new principal residence), and

“(8) section 44A (relating to expenses for household and dependent care services necessary for gainful employment).”

(c) **ADDITIONAL TAX PREFERENCE ITEMS.**—

(1) **ADDITIONAL PREFERENCE ITEMS.**—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

“(1) **EXCESS ITEMIZED DEDUCTIONS.**—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (b)).”

(B) Section 57(a) (relating to items of tax preference) is amended by striking out the matter following paragraph (10) and inserting in lieu thereof the following:

“(11) **INTANGIBLE DRILLING COSTS.**—The excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (d)) had been used with respect to such costs.

Paragraphs (1), (3), and (11) shall not apply to a corporation.”

(C) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease) is amended to read as follows:

“(3) **ACCELERATED DEPRECIATION ON LEASED PERSONAL PROPERTY.**—With respect to each item of section 1245 property (as defined in section 1245(a)(3)) which is subject to a lease, the amount by which—

“(A) the deduction allowable for the taxable year for depreciation or amortization, exceeds

“(B) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight-line method for each taxable year of its useful life for which the taxpayer has held the property.

For purposes of subparagraph (B), useful life shall be determined as if section 167(m)(1) (relating to asset depreciation range) did not include the last sentence thereof.”

Post, p. 1643.

Post, p. 1559.

Post, p. 1563.

26 USC 57.

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—Section 57(b) is amended to read as follows:

“(b) EXCESS ITEMIZED DEDUCTIONS.—

“(1) IN GENERAL.—For purposes of paragraph (1) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

“(A) deductions allowable in arriving at adjusted gross income,

“(B) the standard deduction provided by section 141,

“(C) the deduction for personal exemptions provided by section 151,

“(D) the deduction for medical, dental, etc., expenses provided by section 213, and

“(E) the deduction for casualty losses described in section 165(c)(3),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year.

“(2) SPECIAL RULE FOR TRUSTS AND ESTATES.—In the case of a trust or estate, any deduction allowed or allowable for the taxable year—

“(A) under section 642(c) (but only to the extent that the amount of the deduction allowable under such section is included in the income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends);

“(B) under section 642(d), 642(e), 642(f), 651(a), 661(a), or 691; or

“(C) for costs paid or incurred in connection with the administration of the trust or estate; shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at an adjusted gross income.”

(3) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

“(d) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (11) of subsection (a)—

Ante, p. 1550.

“(1) IN GENERAL.—The term ‘straight line recovery of intangibles’, when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

“(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term ‘straight line recovery of intangibles’ means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(11).”

(4) SPECIAL RULES FOR TIMBER.—

(A) PREFERENCE REDUCTION FOR TIMBER.—Section 57(a)(9) is amended by adding at the end thereof the following new subparagraph:

“(C) PREFERENCE REDUCTION FOR TIMBER.—In the case of a corporation, the amount of the tax preference under sub-

paragraph (B) shall be reduced (but not below zero) by the sum of—

“(i) one-third of the corporation’s timber preference income (as defined in subsection (e)), plus

“(ii) \$20,000,

but in no event shall this reduction exceed the amount of timber preference income.”

(B) REGULAR TAX DEDUCTION ADJUSTMENTS FOR TIMBER.—

26 USC 56.

Section 56 is amended by adding at the end thereof the following new subsections:

“(d) REGULAR TAX DEDUCTION ADJUSTMENT FOR TIMBER.—In the case of a corporation, the regular tax deduction (as determined under subsection (c)) shall be reduced by an amount equal to the lesser of—

Ante, p. 1550.

“(1) one-third of the amount determined under subsection (c) without regard to this subsection, or

“(2) the preference reduction for timber determined under section 57(a)(9)(C).

Ante, p. 1551.

“(e) TAX CARRYOVER FOR TIMBER.—

“(1) IN GENERAL.—In the case of a corporation, if for any taxable year, including a taxable year beginning before January 1, 1976—

“(A) the taxes imposed by this chapter (computed without regard to this part and without regard to the tax imposed by section 531) which, under regulations prescribed by the Secretary, are attributable to income from timber, reduced by the sum of the credits allowable under—

Post, p. 1643.

“(i) section 33 (relating to foreign tax credit),

“(ii) section 38 (relating to investment credit), and

“(iii) section 40 (relating to expenses of work incentive programs), exceed

“(B) the items of tax preference (as determined under section 57),

then the excess of the taxes described in subparagraph (A) over the items of tax preference shall be a tax carryover to each of the 7 taxable years following such year. The entire amount of the excess shall be carried to the first of such 7 taxable years, and then to each of the other such taxable years to the extent that such excess is not used to reduce the amount subject to tax under subsection (a) for a prior taxable year to which such excess may be carried.

“(2) LIMITATION.—The amount of any carryover under paragraph (1) which may be deducted in a taxable year shall be limited to—

“(A) the excess of—

“(i) the amount of timber preference income for the taxable year (as defined in section 57(e)), over

“(ii) the amount determined under section 57(a)(9)(C) for the taxable year,

“(B) reduced by the excess of—

“(i) the regular tax deduction for the taxable year (as determined under subsection (c) without regard to this subsection), over

“(ii) the amount determined under subsection (d) for the taxable year.”

26 USC 57.

(C) TIMBER PREFERENCE INCOME DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

“(e) **TIMBER PREFERENCE INCOME DEFINED.**—For purposes of this part, the term ‘timber preference income’ means the sum of—

“(1) the gains referred to in section 631(a) and section 631(b), 26 USC 631.

“(2) long-term capital gains on timber, and

“(3) gains on the sale of timber included in paragraph 1231

(b)(1),

multiplied by the fraction determined in paragraph 57(a)(9)(B).”

(d) **AMENDMENTS OF SECTION 58.**—Section 58 (relating to rules for application of part) is amended— 26 USC 58.

(1) by striking out subsection (a) and inserting in lieu thereof the following:

“(a) **MARRIED INDIVIDUALS FILING SEPARATE RETURNS.**—In the case of a married individual who files a separate return for the taxable year, section 56 shall be applied by substituting \$5,000 for \$10,000 each place it appears.”

(2) by striking out “\$30,000” each place it appears in subsections

(b) and (c)(2) and inserting in lieu thereof “\$10,000”, and

(3) by adding at the end thereof the following new subsections:

“(h) **REGULATIONS TO INCLUDE TAX BENEFIT RULE.**—The Secretary shall prescribe regulations under which items of tax preference shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer’s tax under this subtitle for any taxable years.

“(i) **CORPORATION DEFINED.**—Except as provided in subsection (d)(2), for purposes of this part, the term ‘corporation’ does not include an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542).”

(e) **CONFORMING AMENDMENT.**—Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out “\$30,000” and inserting in lieu thereof “\$10,000”. 26 USC 443.

(f) **SECTION 21 NOT TO APPLY.**—For purposes of section 21 of the Internal Revenue Code of 1954, the amendments made by this section shall not be treated as a change in a rate of tax. 26 USC 56 note.

(g) **EFFECTIVE DATE.**— 26 USC 56 note.

(1) **IN GENERAL.**—Except as provided by paragraph (4), the amendments made by this section shall apply to items of tax preference for taxable years beginning after December 31, 1975.

(2) **TAX CARRYOVER.**—Except as provided in paragraph (4) and in section 56(e) of the Internal Revenue Code of 1954, the amount of any tax carryover under section 56(c) of such Code from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975.

Ante, p. 1552.

Ante, p. 1550.

(3) **SPECIAL RULE FOR TAXABLE YEAR 1976 IN THE CASE OF A CORPORATION.**—Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, in the case of a corporation which is not an electing small business corporation or a personal holding company the tax imposed by section 56 of such Code for taxable years beginning in 1976, is an amount equal to the sum of—

26 USC 1 *et seq.*

(A) the amount of the tax which would have been imposed for such taxable year under such section as such section was in effect on the day before the date of the enactment of the Tax Reform Act of 1976, and

Ante, p. 1520.

(B) one-half of the amount by which the amount of the tax which would be imposed for such taxable year under such

Ante, p. 1520.

section as amended by the Tax Reform Act of 1976 (but for this paragraph) exceeds the amount determined under subparagraph (A).

(4) CERTAIN FINANCIAL INSTITUTIONS.—In the case of a taxpayer which is a financial institution to which section 585 or 593 of the Internal Revenue Code of 1954 applies, the amendments made by this section shall apply only to taxable years beginning after December 31, 1977, and paragraph (2) shall be applied by substituting “January 1, 1978” for “January 1, 1976” and by substituting “December 31, 1977” for “December 31, 1975”.

SEC. 302. MAXIMUM TAX.

(a) IN GENERAL.—Section 1348 (relating to 50-percent maximum rate on earned income) is amended to read as follows:

26 USC 1348.

“SEC. 1348. 50-PERCENT MAXIMUM RATE ON PERSONAL SERVICE INCOME.

“(a) GENERAL RULE.—If for any taxable year an individual has personal service taxable income which exceeds the amount of taxable income specified in paragraph (1), the tax imposed by section 1 for such year shall, unless the taxpayer chooses the benefits of part I (relating to income averaging), be the sum of—

26 USC 1301.

“(1) the tax imposed by section 1 on the highest amount of taxable income on which the rate of tax does not exceed 50 percent,

“(2) 50 percent of the amount by which his personal service taxable income exceeds the amount of taxable income specified in paragraph (1) of this subsection, and

“(3) the excess of the tax computed under section 1 without regard to this section over the tax so computed with reference solely to his personal service taxable income.

“(b) DEFINITIONS.—For purposes of this section—

“(1) PERSONAL SERVICE INCOME.—

“(A) IN GENERAL.—The term ‘personal service income’ means any income which is earned income within the meaning of section 401(c)(2)(C) or section 911(b) or which is an amount received as a pension or annuity.

“(B) EXCEPTIONS.—The term ‘personal service income’ does not include any amount—

“(i) to which section 72(m)(5), 402(a)(2), 402(e), 403(a)(2), 408(e)(2), 408(e)(3), 408(e)(4), 408(e)(5), 408(f), or 409(c) applies; or

“(ii) which is includible in gross income under section 409(b) because of the redemption of a bond which was not tendered before the close of the taxable year in which the registered owner attained age 70½.

“(2) PERSONAL SERVICE TAXABLE INCOME.—The personal service taxable income of an individual is the excess of—

“(A) the amount which bears the same ratio (but not in excess of 100 percent) to his taxable income as his personal service net income bears to his adjusted gross income, over

“(B) the sum of the items of tax preference (as defined in section 57) for the taxable year.

For purposes of subparagraph (A), the term ‘personal service net income’ means personal service income reduced by any deductions allowable under section 62 which are properly allocable to or chargeable against such earned income.

“(c) MARRIED INDIVIDUALS.—This section shall apply to a married individual only if such individual and his spouse make a single return jointly for the taxable year.”

(b) **CLERICAL AMENDMENT.**—The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1348 and inserting in lieu thereof the following:

“Sec. 1348. 50-percent maximum rate on personal service income.”

(c) **CONFORMING AMENDMENTS.**—Section 1304(b) (5) is amended by striking out “earned” and inserting in lieu thereof “personal service”.

26 USC 1304.

(d) **EFFECTIVE DATE.**—The amendments made by this section apply to taxable years beginning after December 31, 1976.

26 USC 1348
note.

TITLE IV—EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS

SEC. 401. EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS.

(a) GENERAL TAX CREDIT.—

(1) **1-YEAR EXTENSION OF CREDIT.**—Section 3(b) of the Revenue Adjustment Act of 1975 is amended by striking out “December 31, 1976” and inserting in lieu thereof “December 31, 1977”.

26 USC 42 note.

(2) TECHNICAL AMENDMENTS.—

(A) The heading and subsection (a) of section 42 (relating to allowance of taxable income credit) are amended to read as follows:

“SEC. 42. GENERAL TAX CREDIT.

26 USC 42.

“(a) **ALLOWANCE OF CREDIT.**—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

“(1) 2 percent of so much of the taxpayer’s taxable income for the taxable year as does not exceed \$9,000; or

“(2) \$35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.”

(B) Paragraph (1) of section 42(c) (relating to special rule for married individuals filing separate returns) is amended to read as follows:

“(1) **IN GENERAL.**—Notwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

“(A) the amount determined under paragraph (1) of subsection (a); or

“(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (2) of subsection (a).

For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting “\$4,500” for “\$9,000.”

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out “and 41” and inserting in lieu thereof “41, and 42”.

26 USC 6096.

Ante, p. 1520.

(D) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

“Sec. 42. General tax credit.”

26 USC 141.

(b) STANDARD DEDUCTION.—

(1) LOW INCOME ALLOWANCE.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows:

“(c) LOW INCOME ALLOWANCE.—The low income allowance is—

“(1) \$2,100 in the case of—

“(A) a joint return under section 6013, or

“(B) a surviving spouse (as defined in section 2(a)),

“(2) \$1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

“(3) \$1,050 in the case of a married individual filing a separate return.”

(2) PERCENTAGE STANDARD DEDUCTION.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

“(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income, but not more than—

“(1) \$2,800 in the case of—

“(A) a joint return under section 6013, or

“(B) a surviving spouse (as defined in section 2(a)),

“(2) \$2,400 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

“(3) \$1,400 in the case of a married individual filing a separate return.”

26 USC 6012.

(3) FILING REQUIREMENTS.—So much of paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

“(1) (A) Every individual having for the taxable year a gross income of \$750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

“(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than \$2,450,

“(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than \$2,850, or

“(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than \$3,600 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

“(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by \$750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by \$750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);”.

(c) EARNED INCOME CREDIT.—

(1) EXTENSION OF CREDIT.—

(A) Section 209(b) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1977" and inserting in lieu thereof "January 1, 1978". 26 USC 43 note.

(B) Subsections (a) and (b) of section 43 (relating to earned income credit) are amended to read as follows: 26 USC 43.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed \$4,000.

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds \$4,000."

(2) DEFINITION OF ELIGIBLE INDIVIDUAL.—Subparagraph (A) of section 43(c)(1) (relating to definition of eligible individual) is amended to read as follows:

"(A) maintains a household (within the meaning of section 44A(f)(1)) in the United States which is the principal place of abode of that individual and— *Post*, p. 1563.

"(i) a child of that individual if such child meets the requirements of section 151(e)(1)(B) (relating to additional exemptions for dependents), or

"(ii) a child of that individual who is disabled (within the meaning of section 72(m)(7)) and with respect to whom that individual is entitled to claim a deduction under section 151; and".

(d) WITHHOLDING AMENDMENTS.—

(1) Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows: 26 USC 3402.

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary. With respect to wages paid prior to January 1, 1978, the tables so prescribed shall be the same as the tables prescribed under this section which were in effect on January 1, 1976. With respect to wages paid after December 31, 1977, the Secretary shall prescribe new tables which shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made to subsections (b) and (c) of section 141 by the Tax Reform Act of 1976. For purposes of applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1)."

Ante, p. 1556.
"The amount of wages."

(2) Paragraph (6) of section 3402(c) (relating to wage bracket withholding), as such paragraph was in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".

26 USC 1 note.

(3) Subparagraph (B) of section 3402(m)(1) (relating to withholding allowance based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) \$2,800 (\$2,400 in the case of an individual

who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a)).”

26 USC 42 note.

(e) **EFFECTIVE DATES.**—The amendments made by subsections (a) and (c) shall apply to taxable years ending after December 31, 1975, and shall cease to apply to taxable years ending after December 31, 1977. The amendments made by subsection (b) shall apply to taxable years ending after December 31, 1975. The amendments made by subsection (d) shall apply to wages paid after September 14, 1976.

SEC. 402. REFUNDS OF EARNED INCOME CREDIT DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

26 USC 43 note.

(a) Subsection (d) of section 2 of the Revenue Adjustment Act of 1975 is amended by striking out “which begins prior to July 1, 1976.”

26 USC 43 note.

(b) Subsection (g) of section 2 of such Act is amended to read as follows:

“(g) **EFFECTIVE DATES.**—The amendments made by this section (other than by subsection (d)) apply to taxable years ending after December 31, 1975, and before January 1, 1978. Subsection (d) applies to taxable years ending after December 31, 1975.”

TITLE V—TAX SIMPLIFICATION IN THE INDIVIDUAL INCOME TAX

SEC. 501. REVISION OF TAX TABLES FOR INDIVIDUALS.

26 USC 3.

(a) **IN GENERAL.**—Section 3 (relating to optional tax tables for individuals) is amended to read as follows:

“SEC. 3. TAX TABLES FOR INDIVIDUALS HAVING TAXABLE INCOME OF LESS THAN \$20,000.

“(a) **GENERAL RULE.**—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual whose taxable income for such year does not exceed \$20,000, a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary. In the tables so prescribed, the amounts of tax shall be computed on the basis of the rates prescribed by section 1.

“(b) **TAX TREATED AS IMPOSED BY SECTION 1.**—For purposes of this title, the tax imposed by this section shall be treated as tax imposed by section 1.”

(b) **CONFORMING AMENDMENTS.**—

26 USC 4.

(1) Section 4 (relating to rules for optional tax) is hereby repealed.

26 USC 36.

(2) Section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended—

(A) by striking out “**PAYING OPTIONAL TAX OR**” in the heading; and

(B) by striking out “elects to pay the optional tax imposed by section 3, or if he” in such section.

(3) Subsection (a) of section 144 (relating to election of standard deduction) is amended to read as follows:

“(a) **METHOD OF ELECTION.**—The standard deduction shall be allowed if the taxpayer so elects in his return, and the Secretary shall prescribe the manner of signifying such election in the return.”

26 USC 144.

(4) Subsection (c) of section 144 is amended—

(A) by striking out paragraph (2);

(B) by inserting “or” at the end of paragraph (1); and

(C) by redesignating paragraph (3) as paragraph (2).

(5) Subsection (d) of section 144 is hereby repealed.

26 USC 144.

(6) Section 1211(b)(3) (relating to computation of taxable income for purposes of limitation on capital losses) is amended by striking out the last sentence thereof.

26 USC 1211.

(7) Section 1304(b) (relating to certain provisions inapplicable for income averaging) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

26 USC 1304.

(8) Section 6014(a) (relating to tax not computed by taxpayer) is amended—

(A) by striking out in the first sentence “entitled to elect to pay the tax imposed by section 3” and inserting in lieu thereof “entitled to take the standard deduction provided by section 141 (other than an individual described in section 141(e))”; and

Ante, p. 1558.

(B) by striking out in the second sentence “pay the tax imposed by section 3” and inserting in lieu thereof “take the standard deduction”.

(9) Paragraph (5) of section 6014(b) is amended to read as follows:

“(5) to cases where the taxpayer does not elect the standard deduction or where the taxpayer elects the standard deduction but is subject to the provisions of section 141(e) (relating to limitations in case of certain dependent taxpayers).”

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part I of subchapter A of chapter 1 is amended by striking out the items relating to sections 3 and 4 and inserting in lieu thereof:

“Sec. 3. Tax tables for individuals having taxable income of less than \$20,000.”

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out “paying optional tax or” in the item relating to section 36.

SEC. 502. DEDUCTION FOR ALIMONY ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.

(a) IN GENERAL.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (12) the following new paragraph:

26 USC 62.

“(13) ALIMONY.—The deduction allowed by section 215.”

(b) CONFIRMING AMENDMENT.—The first sentence of subparagraph (A) of section 3402(m)(2) (relating to withholding allowances based on itemized deductions) is amended by striking out “under section 62” and inserting in lieu thereof “under section 62 (other than paragraph (13) thereof)”.

26 USC 3402.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

26 USC 62 note.

SEC. 503. REVISION OF RETIREMENT INCOME CREDIT.

(a) IN GENERAL.—Section 37 (relating to retirement income) is amended to read as follows:

26 USC 37.

“SEC. 37. CREDIT FOR THE ELDERLY.

“(a) GENERAL RULE.—In the case of an individual who has attained age 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual’s section 37 amount for such taxable year.

“(b) SECTION 37 AMOUNT.—For purposes of subsection (a)—

“(1) IN GENERAL.—An individual’s section 37 amount for the taxable year is the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (c).

“(2) INITIAL AMOUNT.—The initial amount is—

“(A) \$2,500 in the case of a single individual,

“(B) \$2,500 in the case of a joint return where only one spouse is eligible for the credit under subsection (a),

“(C) \$3,750 in the case of a joint return where both spouses are eligible for the credit under subsection (a), or

“(D) \$1,875 in the case of a married individual filing a separate return.

“(3) REDUCTION.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity—

“(A) under title II of the Social Security Act,

“(B) under the Railroad Retirement Act of 1935 or 1937,

or

“(C) otherwise excluded from gross income.

No reduction shall be made under this paragraph for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 120 (relating to amounts received under qualified group legal services plans), 402 (relating to taxability of beneficiary of employees’ trust), 403 (relating to taxation of employee annuities), or 405 (relating to qualified bond purchase plans).

“(c) LIMITATIONS.—

“(1) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

“(A) \$7,500 in the case of a single individual,

“(B) \$10,000 in the case of a joint return, or

“(C) \$5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over \$7,500, \$10,000, or \$5,000, as the case may be.

“(2) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

“(2) MARITAL STATUS.—Marital status shall be determined under section 143.

“(3) JOINT RETURN.—The term ‘joint return’ means the joint return of a husband and wife made under section 6013.

42 USC 401.
45 USC 215—
228 notes, 228a.

26 USC 72.

Post, p. 1926.

26 USC 1.

“Joint return.”

“(e) ELECTION OF PRIOR LAW WITH RESPECT TO PUBLIC RETIREMENT SYSTEM INCOME.—

“(1) IN GENERAL.—In the case of a taxpayer who has not attained age 65 before the close of the taxable year (other than a married individual whose spouse has attained age 65 before the close of the taxable year), his credit (if any) under this section shall be determined under this subsection.

“(2) ONE SPOUSE AGE 65 OR OVER.—In the case of a married individual who has not attained age 65 before the close of the taxable year but whose spouse has attained such age, this paragraph shall apply for the taxable year only if both spouses elect, at such time and in such manner as the Secretary shall by regulations prescribe, to have this paragraph apply. If this paragraph applies for the taxable year, the credit (if any) of each spouse under this section shall be determined under this subsection.

“(3) COMPUTATION OF CREDIT.—In the case of an individual whose credit under this section for the taxable year is determined under this subsection, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the amount received by such individual as retirement income (as defined in paragraph (4) and as limited by paragraph (5)).

“(4) RETIREMENT INCOME.—For purposes of this subsection, the term ‘retirement income’ means—

“Retirement income.”

“(A) in the case of an individual who has attained age 65 before the close of the taxable year, income from—

“(i) pensions and annuities (including, in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which is exempt from tax under section 501(a)),

26 USC 401.

“(ii) interest,

“(iii) rents,

“(iv) dividends,

“(v) bonds described in section 405(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or retirement bonds described in section 409, and

“(vi) an individual retirement account described in section 408(a) or an individual retirement annuity described in section 408(b), or

“(B) in the case of an individual who has not attained age 65 before the close of the taxable year, income from pensions and annuities under a public retirement system (as defined in paragraph (8)(A)).

to the extent included in gross income without reference to this subsection, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

“(5) LIMITATION ON RETIREMENT INCOME.—For purposes of this subsection, the amount of retirement income shall not exceed \$2,500 less—

“(A) the reduction provided by subsection (b)(3), and

“(B) in the case of any individual who has not attained age 72 before the close of the taxable year—

“(i) if such individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in paragraph (8)(B)) in excess of \$900 received by such individual in the taxable year, or

“(ii) if such individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by such individual in the taxable year in excess of \$1,200 but not in excess of \$1,700, and the amount of earned income so received in excess of \$1,700.

“(6) LIMITATION IN CASE OF MARRIED INDIVIDUALS.—In the case of a joint return, paragraph (5) shall be applied by substituting ‘\$3,750’ for ‘\$2,500’. The \$3,750 provided by the preceding sentence shall be divided between the spouses in such amounts as may be agreed on by them, except that not more than \$2,500 may be assigned to either spouse.

“(7) LIMITATION IN THE CASE OF SEPARATE RETURNS.—In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting ‘\$1,875’ for ‘\$2,500’.

“(8) DEFINITIONS.—For purposes of this subsection—

“(A) PUBLIC RETIREMENT SYSTEM DEFINED.—The term ‘public retirement system’ means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

“(B) EARNED INCOME.—The term ‘earned income’ has the meaning assigned to such term by section 911(b), except that such term does not include any amount received as a pension or annuity.

“(f) NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to any nonresident alien.”

(b) TECHNICAL AMENDMENTS.—

26 USC 904.

(1) Section 904 (relating to limitation on foreign tax credit), as amended by this Act, is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

“(g) COORDINATION WITH CREDIT FOR THE ELDERLY.—In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to credit for the elderly).”

Ante, p. 1559.

26 USC 6014.

(2) Section 6014(a) (relating to tax not computed by taxpayer) is amended by striking out the last sentence thereof.

(3) Section 6014(b) is amended—

(A) by striking out paragraph (4),

(B) by redesignating paragraph (5) (as amended by section 501(b)(9)) as paragraph (4), and

(C) by inserting “or” at the end of paragraph (3).

26 USC 41, 42.

(4) Sections 41(b)(2), 42(b)(2), 46(a)(3)(C), and 50A(a)(3)(C) are each amended by striking out “retirement income” and inserting in lieu thereof “credit for the elderly”.

Post, pp. 1580, 1790.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 37 and inserting in lieu thereof the following:

“Sec. 37. Credit for the elderly.”

SEC. 504. CREDIT FOR CHILD CARE EXPENSES.

(a) ALLOWANCES OF CREDIT FOR CHILD CARE EXPENSES.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting before section 45 the following new section:

“SEC. 44A. EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT. 26 USC 44A.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.

“(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

“(1) section 33 (relating to foreign tax credit),

Post, p. 1643.

“(2) section 37 (relating to credit for the elderly),

Ante, p. 1559.

“(3) section 38 (relating to investment in certain depreciable property),

“(4) section 40 (relating to expenses of work incentive programs),

“(5) section 41 (relating to contributions to candidates for public office),

“(6) section 42 (relating to general tax credit), and

“(7) section 44 (relating to purchase of new principal residence).

“(c) DEFINITIONS OF QUALIFYING INDIVIDUAL AND EMPLOYMENT-RELATED EXPENSES.—For purposes of this section—

“(1) QUALIFYING INDIVIDUAL.—The term ‘qualifying individual’ means—

“(A) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e).

“(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself, or

“(C) the spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

“(2) EMPLOYMENT-RELATED EXPENSES.—

“(A) IN GENERAL.—The term ‘employment-related expenses’ means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are 1 or more qualifying individuals with respect to the taxpayer:

“(i) expenses for household services, and

“(ii) expenses for the care of a qualifying individual.

“(B) EXCEPTION.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer’s household shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1)(A).

“(d) DOLLAR LIMIT ON AMOUNT CREDITABLE.—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

“(1) \$2,000 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

“(2) \$4,000 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

“(e) EARNED INCOME LIMITATION.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

“(A) in the case of an individual who is not married at the close of such year, such individual’s earned income for such year, or

“(B) in the case of an individual who is married at the close of such year, the lesser of such individual’s earned income or the earned income of his spouse for such year.

“(2) SPECIAL RULE FOR SPOUSE WHO IS A STUDENT OR INCAPABLE OF CARING FOR HIMSELF.—In the case of a spouse who is a student or a qualifying individual described in subsection (c) (1) (C), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

“(A) \$166 if subsection (d) (1) applies for the taxable year, or

“(B) \$333 if subsection (d) (2) applies for the taxable year.

In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

“(f) SPECIAL RULES.—For purposes of this section—

“(1) MAINTAINING HOUSEHOLD.—An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

“(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

“(3) MARITAL STATUS.—An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

“(4) CERTAIN MARRIED INDIVIDUALS LIVING APART.—If—

“(A) an individual who is married and who files a separate return—

“(i) maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

“(ii) furnishes over half of the cost of maintaining such household during the taxable year, and

“(B) during the last 6 months of such taxable year such individual’s spouse is not a member of such household, such individual shall not be considered as married.

“(5) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If—

“(A) a child (as defined in section 151(e)(3)) who is under the age of 15 or who is physically or mentally incapable

of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

“(B) such child is in the custody of one or both of his parents for more than one-half of the calendar year, in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph (A) or (B) of subsection (c) (1), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

“(6) PAYMENTS TO RELATED INDIVIDUALS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152(a) (relating to definition of dependent) or to a dependent described in paragraph (9) of such section.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to any amount paid by the taxpayer to an individual with respect to whom, for the taxable year of the taxpayer in which the service is performed, neither the taxpayer nor his spouse is entitled to a deduction under section 151(e) (relating to deduction for personal exemptions for dependents), but only if the service with respect to which such amount is paid constitutes employment within the meaning of section 3121(b).

“(7) STUDENT.—The term ‘student’ means an individual who during each of 5 calendar months during the taxable year is a full-time student at an educational organization.

“Student.”

“(8) EDUCATIONAL ORGANIZATION.—The term ‘educational organization’ means an educational organization described in section 170(b) (1) (A) (ii).

“Educational organization.”

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”

(2) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 45 the following new item:

“Sec. 44A. Expenses for household and dependent care services necessary for gainful employment.”

(b) REPEAL OF DEDUCTION FOR CHILD CARE EXPENSES.—

(1) IN GENERAL.—Section 214 (relating to expenses for household and dependent care services necessary for gainful employment) is hereby repealed.

26 USC 214.

(2) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 214.

(c) TECHNICAL AMENDMENTS.—

(1) Section 213(f) (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out “a deduction under section 214” and inserting in lieu thereof “a credit under section 44A”.

26 USC 213.

(2) Section 6096(b) (defining income tax liability) is amended by striking out “and 44” and inserting in lieu thereof “, 44, and 44A”.

Ante, p. 1563.
26 USC 6096.

26 USC 3402.

(3) Paragraph (4) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out “and” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “, and”, and by adding at the end thereof the following new subparagraph:

“(C) may take into account tax credits to which employees are entitled.”

SEC. 505. CHANGES IN EXCLUSIONS FOR SICK PAY AND CERTAIN MILITARY, ETC., DISABILITY PENSIONS; CERTAIN DISABILITY INCOME.

26 USC 105.

(a) **SICK PAY.**—Subsection (d) of section 105 (relating to amounts excluded from gross income under wage continuation plans) is amended to read as follows:

“(d) **CERTAIN DISABILITY PAYMENTS.**—

“(1) **IN GENERAL.**—In the case of a taxpayer who—

“(A) has not attained age 65 before the close of the taxable year, and

“(B) retired on disability and, when he retired, was permanently and totally disabled,

gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of permanent and total disability.

“(2) **LIMITATION.**—This subsection shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of \$100.

“(3) **PHASEOUT OVER \$15,000.**—If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subsection) exceeds \$15,000, the amount which but for this paragraph would be excluded under this subsection for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over \$15,000.

“(4) **MARRIED COUPLE MUST FILE JOINT RETURN.**—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year. For purposes of this subsection, marital status shall be determined under section 143.

“(5) **PERMANENT AND TOTAL DISABILITY DEFINED.**—For purposes of this subsection, an individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

“(6) **JOINT RETURN.**—For purposes of this subsection, the term ‘joint return’ means the joint return of a husband and wife made under section 6013.

“(7) **COORDINATION WITH SECTION 72.**—In the case of an individual described in subparagraphs (A) and (B) of paragraph (1), for purposes of section 72 the annuity starting date shall not

be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years."

(b) CERTAIN MILITARY, ETC., DISABILITY PENSIONS.—Section 104 (relating to compensation for injuries or sickness) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) TERMINATION OF APPLICATION OF SUBSECTION (a) (4) IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a) (4) shall not apply in the case of any individual who is not described in paragraph (2).

"(2) INDIVIDUALS TO WHOM SUBSECTION (a) (4) CONTINUES TO APPLY.—An individual is described in this paragraph if—

"(A) on or before September 24, 1975, he was entitled to receive any amount described in subsection (a) (4).

"(B) on September 24, 1975, he was a member of any organization (or reserve component thereof) referred to in subsection (a) (4) or under a binding written commitment to become such a member,

"(C) he receives an amount described in subsection (a) (4) by reason of a combat-related injury, or

"(D) on application therefor, he would be entitled to receive disability compensation from the Veterans' Administration.

"(3) SPECIAL RULES FOR COMBAT-RELATED INJURIES.—For purposes of this subsection, the term 'combat-related injury' means personal injury or sickness—

"(A) which is incurred—

"(i) as a direct result of armed conflict.

"(ii) while engaged in extrahazardous service, or

"(iii) under conditions simulating war; or

"(B) which is caused by an instrumentality of war.

In the case of an individual who is not described in subparagraph (A) or (B) of paragraph (2), except as provided in paragraph (4), the only amounts taken into account under subsection (a) (4) shall be the amounts which he receives by reason of a combat-related injury.

"(4) AMOUNT EXCLUDED TO BE NOT LESS THAN VETERANS' DISABILITY COMPENSATION.—In the case of any individual described in paragraph (2), the amounts excludable under subsection (a) (4) for any period with respect to any individual shall not be less than the maximum amount which such individual, on application therefor, would be entitled to receive as disability compensation from the Veterans' Administration."

(c) SPECIAL RULE FOR EXISTING PERMANENT AND TOTAL DISABILITY CASES.—In the case of any individual who—

(1) retired before January 1, 1976,

(2) either retired on disability or was entitled to retire on disability, and

(3) on January 1, 1976, was permanently and totally disabled (within the meaning of section 105(d) (5) of the Internal Revenue Code of 1954),

26 USC 104.

"Combat-related injury."

26 USC 105 note.

Ante, p. 1566.

Ante, p. 1566.

26 USC 105
note.

such individual shall be deemed to have met the requirements of section 105(d)(1)(B) of such Code (as amended by subsection (a) of this section).

(d) SPECIAL RULE FOR COORDINATION WITH SECTION 72.—In the case of an individual who—

(1) retired on disability before January 1, 1976, and

(2) on December 31, 1975, was entitled to exclude any amount with respect to such retirement disability from gross income under section 105(d) of the Internal Revenue Code of 1954, for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years.

(e) CERTAIN DISABILITY INCOME.—

26 USC 104

(1) IN GENERAL.—Section 104(a) (relating to compensation for injuries or sickness) is amended—

(A) by striking out “and” at the end of paragraph (3);

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word “and”; and

(C) by adding at the end thereof the following new paragraph:

“(5) amounts received by an individual as disability income attributable to injuries incurred as a direct result of a violent attack which the Secretary of State determines to be a terrorist attack and which occurred while such individual was an employee of the United States engaged in the performance of his official duties outside the United States.”

26 USC 104
note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

SEC. 506. MOVING EXPENSES.

26 USC 217.

(a) DECREASE IN MILEAGE TEST FROM 50 MILES TO 35 MILES.—Paragraph (1) of section 217(c) (relating to conditions for allowance of deduction for moving expenses) is amended by striking out “50 miles” each place it appears and inserting in lieu thereof “35 miles”.

(b) INCREASE IN DOLLAR AMOUNTS.—

(1) CERTAIN EXPENSES OF TRAVELING, MEALS, AND LODGING AFTER OBTAINING EMPLOYMENT.—The first sentence of subparagraph (A) of section 217(b)(3) (relating to dollar limits) is amended by striking out “\$1,000” and inserting in lieu thereof “\$1,500”.

(2) AGGREGATE DOLLAR LIMIT.—The second sentence of subparagraph (A) of section 217(b)(3) is amended by striking out “\$2,500” and inserting in lieu thereof “\$3,000”.

(3) SEPARATE RETURNS.—The second sentence of subparagraph (B) of section 217(b)(3) (relating to dollar limits in the case of husband and wife) is amended to read as follows: “In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting ‘\$750’ for ‘\$1,500’, and by substituting ‘\$1,500’ for ‘\$3,000’.”

(c) RULES FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Section 217 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) RULES FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—In the case of a member of the Armed Forces of the United

States on active duty who moves pursuant to a military order and incident to a permanent change of station—

“(1) the limitations under subsection (c) shall not apply;

Moving and storage expenses.

“(2) any moving and storage expenses which are furnished in kind (or for which reimbursement or an allowance is provided, but only to the extent of the expenses paid or incurred) to such member, his spouse, or his dependents, shall not be includible in gross income, and no reporting with respect to such expenses shall be required by the Secretary of Defense or the Secretary of Transportation, as the case may be; and

“(3) if moving and storage expenses are furnished in kind (or if reimbursement or an allowance for such expenses is provided) to such member's spouse and his dependents with regard to moving to a location other than the one to which such member moves (or from a location other than the one from which such member moves), this section shall apply with respect to the moving expenses of his spouse and dependents—

“(A) as if his spouse commenced work as an employee at a new principal place of work at such location;

“(B) for purposes of subsection (b) (3), as if such place of work was within the same general location as the member's new principal place of work, and

“(C) without regard to the limitations under subsection (c).”

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1976.

26 USC 217 note.

SEC. 507. TAX REVISION STUDY.

(a) **STUDY.**—The Joint Committee on Taxation shall make a full and complete study and investigation with respect to simplifying and indexing the tax laws of the United States. Such study and investigation shall include a consideration of whether the rates of tax can be reduced by repealing any or all tax deductions, exemptions, or credits.

26 USC 8022 note.

(b) **REPORT.**—Before July 1, 1977, the Joint Committee on Taxation shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a report of its study and investigation together with its recommendations, including recommendations for legislation.

Report to congressional committees.

SEC. 508. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this title shall apply to taxable years beginning after December 31, 1975.

26 USC 3 note.

TITLE VI—BUSINESS RELATED INDIVIDUAL INCOME TAX PROVISIONS

SEC. 601. DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES, ETC.

(a) **NONDEDUCTIBILITY OF CERTAIN EXPENSES.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

“SEC. 280A. **DISALLOWANCE OF CERTAIN EXPENSES IN CONNECTION WITH BUSINESS USE OF HOME, RENTAL OF VACATION HOMES, ETC.**

26 USC 280A.

“(a) **GENERAL RULE.**—Except as otherwise provided in this section, in the case of a taxpayer who is an individual or an electing small

business corporation, no deduction otherwise allowable under this chapter shall be allowed with respect to the use of a dwelling unit which is used by the taxpayer during the taxable year as a residence.

“(b) EXCEPTION FOR INTEREST, TAXES, CASUALTY LOSSES, ETC.—Subsection (a) shall not apply to any deduction allowable to the taxpayer without regard to its connection with his trade or business (or with his income-producing activity).

“(c) EXCEPTIONS FOR CERTAIN BUSINESS OR RENTAL USE; LIMITATION ON DEDUCTIONS FOR SUCH USE.—

“(1) CERTAIN BUSINESS USE.—Subsection (a) shall not apply to any item to the extent such item is allocable to a portion of the dwelling unit which is exclusively used on a regular basis—

“(A) as the taxpayer’s principal place of business,

“(B) as a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business, or

“(C) in the case of a separate structure which is not attached to the dwelling unit, in connection with the taxpayer’s trade or business.

In the case of an employee, the preceding sentence shall apply only if the exclusive use referred to in the preceding sentence is for the convenience of his employer.

“(2) CERTAIN STORAGE USE.—Subsection (a) shall not apply to any item to the extent such item is allocable to space within the dwelling unit which is used on a regular basis as a storage unit for the inventory of the taxpayer held for use in the taxpayer’s trade or business of selling products at retail or wholesale, but only if the dwelling unit is the sole fixed location of such trade or business.

“(3) RENTAL USE.—Subsection (a) shall not apply to any item which is attributable to the rental of the dwelling unit or portion thereof (determined after the application of subsection (e)).

“(4) LIMITATION ON DEDUCTIONS.—In the case of a use described in paragraph (1) or (2), and in the case of a use described in paragraph (3) where the dwelling unit is used by the taxpayer during the taxable year as a residence, the deductions allowed under this chapter for the taxable year by reason of being attributed to such use shall not exceed the excess of—

“(A) the gross income derived from such use for the taxable year, over

“(B) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used.

“(d) USE AS RESIDENCE.—

“(1) IN GENERAL.—For purposes of this section, a taxpayer uses a dwelling unit during the taxable year as a residence if he uses such unit (or portion thereof) for personal purposes for a number of days which exceeds the greater of—

“(A) 14 days, or

“(B) 10 percent of the number of days during such year for which such unit is rented at a fair rental.

For purposes of subparagraph (B), a unit shall not be treated as rented at a fair rental for any day for which it is used for personal purposes.

“(2) PERSONAL USE OF UNIT.—For purposes of this section, the taxpayer shall be deemed to have used a dwelling unit for per-

sonal purposes for a day if, for any part of such day, the unit is used—

“(A) for personal purposes by the taxpayer or any other person who has an interest in such unit, or by any member of the family (as defined in section 267(c)(4)) of the taxpayer or such other person;

26 USC 267.

“(B) by any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit (whether or not a rental is charged for the use of such other unit); or

“(C) by any individual (other than an employee with respect to whose use section 119 applies), unless for such day the dwelling unit is rented for a rental which, under the facts and circumstances, is fair rental.

The Secretary shall prescribe regulations with respect to the circumstances under which use of the unit for repairs and annual maintenance will not constitute personal use under this paragraph.

Regulations.

“(e) EXPENSES ATTRIBUTABLE TO RENTAL.—

“(1) IN GENERAL.—In any case where a taxpayer who is an individual or an electing small business corporation uses a dwelling unit for personal purposes on any day during the taxable year (whether or not he is treated under this section as using such unit as a residence), the amount deductible under this chapter with respect to expenses attributable to the rental of the unit (or portion thereof) for the taxable year shall not exceed an amount which bears the same relationship to such expenses as the number of days during each year that the unit (or portion thereof) is rented at a fair rental bears to the total number of days during such year that the unit (or portion thereof) is used.

“(2) EXCEPTION FOR DEDUCTIONS OTHERWISE ALLOWABLE.—This subsection shall not apply with respect to deductions which would be allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was rented.

“(f) DEFINITIONS AND SPECIAL RULES.—

“(1) DWELLING UNIT DEFINED.—For purposes of this section—

“(A) IN GENERAL.—The term ‘dwelling unit’ includes a house, apartment, condominium, mobile home, boat, or similar property, and all structures or other property appurtenant to such dwelling unit.

“(B) EXCEPTION.—The term ‘dwelling unit’ does not include that portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment.

“(2) PERSONAL USE BY ELECTING SMALL BUSINESS CORPORATION.—In the case of an electing small business corporation, subparagraphs (A) and (B) of subsection (d)(2) shall be applied by substituting ‘any shareholder of the electing small business corporation’ for ‘the taxpayer’ each place it appears.

“(3) COORDINATION WITH SECTION 183.—If subsection (a) applies with respect to any dwelling unit (or portion thereof) for the taxable year—

“(A) section 183 (relating to activities not engaged in for profit) shall not apply to such unit (or portion thereof) for such year, but

“(B) such year shall be taken into account as a taxable year for purposes of applying subsection (d) of section 183 (relating to 5-year presumption).

“(g) **SPECIAL RULE FOR CERTAIN RENTAL USE.**—Notwithstanding any other provision of this section or section 183, if a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, then—

“(1) no deduction otherwise allowable under this chapter because of the rental use of such dwelling unit shall be allowed, and

“(2) the income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under section 61.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such part IX is amended by adding at the end thereof the following new item:

“SEC. 280A. Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 602. DEDUCTIONS FOR ATTENDING FOREIGN CONVENTIONS.

(a) **NONDEDUCTIBILITY OF CERTAIN EXPENSES.**—Section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **FOREIGN CONVENTIONS.**—

“(1) **DEDUCTIONS WITH RESPECT TO NOT MORE THAN 2 FOREIGN CONVENTIONS PER YEAR ALLOWED.**—If any individual attends more than 2 foreign conventions during his taxable year—

“(A) he shall select not more than 2 of such conventions to be taken into account for purposes of this subsection, and

“(B) no deduction allocable to his attendance at any foreign convention during such taxable year (other than a foreign convention selected under subparagraph (A)) shall be allowed under section 162 or 212.

“(2) **DEDUCTIBLE TRANSPORTATION COST CANNOT EXCEED COST OF COACH OR ECONOMY AIR FARE.**—In the case of any foreign convention, no deduction for the expenses of transportation outside the United States to and from the site of such convention shall be allowed under section 162 or 212 in an amount which exceeds the lowest coach or economy rate at the time of travel charged by a commercial airline for transportation to and from such site during the calendar month in which such convention begins. If there is no such coach or economy rate, the preceding sentence shall be applied by substituting ‘first class’ for ‘coach or economy’.

“(3) **TRANSPORTATION COSTS DEDUCTIBLE IN FULL ONLY IF AT LEAST ONE-HALF OF THE DAYS ARE DEVOTED TO BUSINESS RELATED ACTIVITIES.**—In the case of any foreign convention, a deduction for the full expenses of transportation (determined after the application of paragraph (2)) to and from the site of such convention shall be allowed only if more than one-half of the total days of the trip, excluding the days of transportation to and from the site of such convention, are devoted to business related activities. If less than one-half of the total days of the trip, excluding the days of transportation to and from the site of the convention, are devoted to business related activities, no deduction for the expenses of transportation shall be allowed which exceeds the percentage of the days of the trip devoted to business related activities.

26 USC 280A
note.

26 USC 274.

“(4) DEDUCTIONS FOR SUBSISTENCE EXPENSES NOT ALLOWED UNLESS THE INDIVIDUAL ATTENDS TWO-THIRDS OF BUSINESS ACTIVITIES.—In the case of any foreign convention, no deduction for subsistence expenses shall be allowed except as follows:

“(A) a deduction for a full day of subsistence expenses while at the convention shall be allowed if there are at least 6 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities, and

“(B) a deduction for one-half day of subsistence expenses while at the convention shall be allowed if there are at least 3 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities.

Notwithstanding subparagraphs (A) and (B), a deduction for subsistence expenses for all of the days or half days, as the case may be, of the convention shall be allowed if the individual attending the convention has attended at least two-thirds of the scheduled business activities, and each such full day consists of at least 6 hours of scheduled business activities and each such half day consists of at least 3 hours of scheduled business activities.

“(5) DEDUCTIBLE SUBSISTENCE COSTS CANNOT EXCEED PER DIEM RATE FOR UNITED STATES CIVIL SERVANTS.—In the case of any foreign convention, no deduction for subsistence expenses while at the convention or traveling to or from such convention shall be allowed at a rate in excess of the dollar per diem rate for the site of the convention which has been established under section 5702(a) of title 5 of the United States Code and which is in effect for the calendar month in which the convention begins.

“(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) FOREIGN CONVENTION DEFINED.—The term ‘foreign convention’ means any convention, seminar, or similar meeting held outside the United States, its possessions, and the Trust Territory of the Pacific.

“(B) SUBSISTENCE EXPENSES DEFINED.—The term ‘subsistence expenses’ means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler. Such term includes tips and taxi and other local transportation expenses.

“(C) ALLOCATION OF EXPENSES IN CERTAIN CASES.—In any case where the transportation expenses or the subsistence expenses are not separately stated, or where there is reason to believe that the stated charge for transportation expenses or subsistence expenses or both does not properly reflect the amounts properly allocable to such purposes, all amounts paid for transportation expenses and subsistence expenses shall be treated as having been paid solely for subsistence expenses.

“(D) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—This subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the foreign convention. For purposes of the preceding sentence such person shall be treated, with respect to each individual, as having selected the same 2 foreign conventions as were selected by such individual.

“(7) REPORTING REQUIREMENTS.—No deduction shall be allowed under section 162 or 212 for transportation or subsistence expenses allocable to attendance at a foreign convention unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

“(A) a written statement signed by the individual attending the convention which includes—

“(i) information with respect to the total days of the trip, excluding the days of transportation to and from the site of such convention, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,

“(ii) a program of the scheduled business activities of the convention, and

“(iii) such other information as may be required in regulations prescribed by the Secretary; and

“(B) a written statement signed by an officer of the organization or group sponsoring the convention which includes—

“(i) a schedule of the business activities of each day of the convention,

“(ii) the number of hours which the individual attending the convention attended such scheduled business activities, and

“(iii) such other information as may be required in regulations prescribed by the Secretary.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to conventions beginning after December 31, 1976.

SEC. 603. CHANGE IN TAX TREATMENT OF QUALIFIED STOCK OPTIONS.

(a) IN GENERAL.—Section 422(b) (defining qualified stock option) is amended by inserting “and before May 21, 1976 (or, if it meets the requirements of subsection (c)(7), granted to an individual after May 20, 1976),” after “section 424(c)(3)(A),”.

(b) CERTAIN OPTIONS GRANTED AFTER MAY 20, 1976.—Section 422(c) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

“(7) CERTAIN OPTIONS GRANTED AFTER MAY 20, 1976.—For purposes of subsection (b), an option granted after May 20, 1976, meets the requirements of this paragraph—

“(A) if such option is granted to an individual pursuant to a written plan adopted before May 21, 1976, or

“(B) if such option is a new option substituted, in a transaction to which section 425(a) applies, for an old option which was granted before May 21, 1976, or which met the requirements of subparagraph (A).

An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981.”

(c) RESTRICTED STOCK OPTIONS MUST BE EXERCISED BEFORE MAY 21, 1981.—Section 424(c)(3) (relating to special rules for restricted stock options) is amended by adding at the end thereof the following new sentence: “An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1975.

26 USC 274
note.

26 USC 422.

26 USC 424.

26 USC 422
note.

SEC. 604. STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.

(a) **IN GENERAL.**—For purposes of section 162(a) of the Internal Revenue Code of 1954, in the case of any individual who was a State legislator at any time during any taxable year beginning before January 1, 1976, and who elects the application of this section, for any period during such a taxable year in which he was a State legislator—

26 USC 162
note.

(1) the place of residence of such individual within the legislative district which he represented shall be considered his home, and

(2) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

(b) **LEGISLATIVE DAYS.**—For purposes of subsection (a), a legislative day during any taxable year for any individual shall be any day during such year on which (1) the legislature was in session (including any day in which the legislature was not in session for a period of 4 consecutive days or less), or (2) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

(c) **LIMITATION.**—The amount taken into account as living expenses attributable to a trade or business as a State legislator for any taxable year under an election made under this section shall not exceed the amount claimed for such purpose under a return (or amended return) filed before May 21, 1976.

(d) **MAKING AND EFFECT OF ELECTION.**—An election under this section shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Any such election shall apply to all taxable years beginning before January 1, 1976, for which the period for assessing or collecting a deficiency has not expired before the date of the enactment of this Act.

Regulations.

SEC. 605. DEDUCTION FOR GUARANTEES OF BUSINESS BAD DEBTS TO GUARANTORS NOT INVOLVED IN BUSINESS.

(a) **REPEAL OF SECTION 166(f).**—Section 166 (relating to bad debts) is amended by striking out subsection (f) and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

26 USC 166.

(b) **CONFORMING AMENDMENT.**—Paragraph (1) of section 81 (relating to certain increases in suspense accounts) is amended by striking out "section 166(g)" in the text and inserting in lieu thereof "section 166(f)".

26 USC 81.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to guarantees made after December 31, 1975, in taxable years beginning after such date.

26 USC 166
note.

TITLE VII—ACCUMULATION TRUSTS**SEC. 701. ACCUMULATION TRUSTS.**

(a) **REVISION OF METHOD OF TAXING ACCUMULATION DISTRIBUTION FROM TRUSTS.**—

(1) Section 667 (relating to denial of refund to trusts; authorization of credit to beneficiaries) is amended to read as follows:

26 USC 667.

26 USC 667.

"SEC. 667. TREATMENT OF AMOUNTS DEEMED DISTRIBUTED BY TRUST IN PRECEDING YEARS.

"(a) **GENERAL RULE.**—The total of the amounts which are treated under section 666 as having been distributed by a trust in a preceding taxable year shall be included in the income of a beneficiary of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary under section 662(a) (2) (and, with respect to any tax-exempt interest to which section 103 applies, under section 662(b)) if such total had been paid to such beneficiary on the last day of such preceding taxable year. The tax imposed by this subtitle on a beneficiary for a taxable year in which any such amount is included in his income shall be determined only as provided in this section and shall consist of the sum of—

"(1) a partial tax computed on the taxable income reduced by an amount equal to the total of such amounts, at the rate and in the manner as if this section had not been enacted, and

"(2) a partial tax determined as provided in subsection (b) of this section.

"(b) TAX ON DISTRIBUTION.—

"(1) **IN GENERAL.**—The partial tax imposed by subsection (a) (2) shall be determined—

"(A) by determining the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 666(a) to have been distributed,

"(B) by taking from the 5 taxable years immediately preceding the year of the accumulation distribution the 1 taxable year for which the beneficiary's taxable income was the highest and the 1 taxable year for which his taxable income was the lowest,

"(C) by adding to the beneficiary's taxable income for each of the 3 taxable years remaining after the application of subparagraph (B) an amount determined by dividing the amount deemed distributed under section 666 and required to be included in income under subsection (a) by the number of preceding taxable years determined under subparagraph (A), and

"(D) by determining the average increase in tax for the 3 taxable years referred to in subparagraph (C) resulting from the application of such subparagraph.

The partial tax imposed by subsection (a) (2) shall be the excess (if any) of the average increase in tax determined under subparagraph (D), multiplied by the number of preceding taxable years determined under subparagraph (A), over the amount of taxes deemed distributed to the beneficiary under sections 666(b) and (c).

"(2) **TREATMENT OF LOSS YEARS.**—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed not to be less than zero.

"(3) **CERTAIN PRECEDING TAXABLE YEARS NOT TAKEN INTO ACCOUNT.**—For purposes of paragraph (1), if the amount of the undistributed net income deemed distributed in any preceding taxable year of the trust is less than 25 percent of the amount of the accumulation distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under section 666(a), the number of preceding taxable years of

the trust with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall be determined without regard to such year.

"(4) EFFECT OF OTHER ACCUMULATION DISTRIBUTIONS.—In computing the partial tax under paragraph (1) for any beneficiary, the income of such beneficiary for each of his prior taxable years shall include amounts previously deemed distributed to such beneficiary in such year under section 666 as a result of prior accumulation distributions (whether from the same or another trust).

"(5) MULTIPLE DISTRIBUTIONS IN THE SAME TAXABLE YEAR.—In the case of accumulation distributions made from more than one trust which are includible in the income of a beneficiary in the same taxable year, the distributions shall be deemed to have been made consecutively in whichever order the beneficiary shall determine.

"(c) SPECIAL RULE FOR MULTIPLE TRUSTS.—

"(1) IN GENERAL.—If, in the same prior taxable year of the beneficiary in which any part of the accumulation distribution from a trust (hereinafter in this paragraph referred to as 'third trust') is deemed under section 666(a) to have been distributed to such beneficiary, some part of prior distributions by each of 2 or more other trusts is deemed under section 666(a) to have been distributed to such beneficiary, then subsections (b) and (c) of section 666 shall not apply with respect to such part of the accumulation distribution from such third trust.

"(2) ACCUMULATION DISTRIBUTIONS FROM TRUST NOT TAKEN INTO ACCOUNT UNLESS THEY EQUAL OR EXCEED \$1,000.—For purposes of paragraph (1), an accumulation distribution from a trust to a beneficiary shall be taken into account only if such distribution, when added to any prior accumulation distributions from such trust which are deemed under section 666(a) to have been distributed to such beneficiary for the same prior taxable year of the beneficiary, equals or exceeds \$1,000."

(2) Section 666 (relating to accumulation distribution allocated to preceding years) is amended by adding at the end thereof the following new subsection: 26 USC 666.

"(e) DENIAL OF REFUND TO TRUSTS AND BENEFICIARIES.—No refund or credit shall be allowed to a trust or a beneficiary of such trust for any preceding taxable year by reason of a distribution deemed to have been made by such trust in such year under this section."

(3) Section 668 (relating to treatment of amounts deemed distributed in preceding years) is hereby repealed. 26 USC 668.

(b) INCOME ACCUMULATED BEFORE CHILD ATTAINS AGE OF 21 YEARS NOT TO BE SUBJECT TO THE THROWBACK RULE.—Subsection (b) of section 665 (defining accumulation distribution) is amended by adding at the end thereof the following new sentence: "For purposes of section 667 (other than subsection (c) thereof, relating to multiple trusts), the amounts specified in paragraph (2) of section 661(a) shall not include amounts properly paid, credited, or required to be distributed to a beneficiary from a trust (other than a foreign trust) as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 21." 26 USC 665.

(c) NO ACCUMULATION DISTRIBUTION WHERE DISTRIBUTIONS DO NOT EXCEED ACCOUNTING INCOME.—Section 665(b) (defining accumulation distribution), as amended by subsection (b), is amended by adding at the end thereof the following new sentence: "If the amounts properly paid, credited, or required to be distributed by the trust for the taxable

Ante., p. 1575.

year do not exceed the income of the trust for such year, there shall be no accumulation distribution for such year.”

(d) REPEAL OF SPECIAL CAPITAL GAIN THROWBACK.—

26 USC 669.

(1) Section 669 (relating to treatment of capital gain deemed distributed in preceding years) is hereby repealed.

26 USC 665.

(2) Paragraph (1) of section 665(e) (defining preceding taxable year) is amended—

(A) by striking out subparagraph (C),

(B) by inserting “or” at the end of subparagraph (A), and

(C) by striking out “, or” at the end of subparagraph (B) and inserting in lieu thereof “; and”.

(3) Section 665 (definitions applicable to subpart D) is amended by striking out subsections (f) and (g).

(e) SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.—

(1) In GENERAL.—Subpart A of part I of subchapter J of chapter 1 (relating to general rules for taxation of estates and trusts) is amended by adding at the end thereof the following new section:

26 USC 644.

“SEC. 644. SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.

“(a) IMPOSITION OF TAX.—

“(1) IN GENERAL.—If—

“(A) a trust (or another trust to which the property is distributed) sells or exchanges property at a gain not more than 2 years after the date of the initial transfer of the property in trust by the transferor, and

“(B) the fair market value of such property at the time of the initial transfer in trust by the transferor exceeds the adjusted basis of such property immediately after such transfer,

there is hereby imposed a tax determined in accordance with paragraph (2) on the includible gain realized on such sale or exchange.

“(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on any includible gain realized on the sale or exchange of any property shall be equal to the sum of—

“(A) the excess of—

“(i) the tax which would have been imposed under this chapter for the taxable year of the transferor in which the sale or exchange of such property occurs had the amount of the includible gain realized on such sale or exchange, reduced by any deductions properly allocable to such gain, been included in the gross income of the transferor for such taxable year, over

“(ii) the tax actually imposed under this chapter for such taxable year on the transferor, plus

“(B) if such sale or exchange occurs in a taxable year of the transferor which begins after the beginning of the taxable year of the trust in which such sale or exchange occurs, an amount equal to the amount determined under subparagraph (A) multiplied by the annual rate established under section 6621.

“(3) TAXABLE YEAR FOR WHICH TAX IMPOSED.—The tax imposed by paragraph (1) shall be imposed for the taxable year of the trust which begins with or within the taxable year of the transferor in which the sale or exchange occurs.

“(4) TAX TO BE IN ADDITION TO OTHER TAXES.—The tax imposed by this subsection for any taxable year of the trust shall be in addition to any other tax imposed by this chapter for such taxable year.

“(b) DEFINITION OF INCLUDIBLE GAIN.—For purposes of this section, the term ‘includible gain’ means the lesser of—

“(1) the gain realized by the trust on the sale or exchange of any property, or

“(2) the excess of the fair market value of such property at the time of the initial transfer in trust by the transferor over the adjusted basis of such property immediately after such transfer.

“(c) CHARACTER OF INCLUDIBLE GAIN.—For purposes of subsection (a)—

“(1) the character of the includible gain shall be determined as if the property had actually been sold or exchanged by the transferor, and any activities of the trust with respect to the sale or exchange of the property shall be deemed to be activities of the transferor, and

“(2) the portion of the includible gain subject to the provisions of section 1245 and section 1250 shall be determined in accordance with regulations prescribed by the Secretary.

“(d) SPECIAL RULE FOR SHORT SALES.—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, such 2-year period shall be extended to the date of the closing of such short sale.

“(e) EXCEPTIONS.—Subsection (a) shall not apply to property—

“(1) acquired by the trust from a decedent or which passed to a trust from a decedent (within the meaning of section 1014), or

“(2) acquired by a pooled income fund (as defined in section 642(c)(5)), or

“(3) acquired by a charitable remainder annuity trust (as defined in section 664(d)(1)) or a charitable remainder unitrust (as defined in sections 664(d)(2) and (3)), or

“(4) if the sale or exchange of the property occurred after the death of the transferor.

“(f) SPECIAL RULE FOR INSTALLMENT SALES.—If the trust elects to report income under section 453 on any sale or exchange to which subsection (a) applies, under regulations prescribed by the Secretary—

“(1) subsection (a) shall be applied as if each installment were a separate sale or exchange of property to which such subsection applies, and

“(2) the term ‘includible gain’ shall not include any portion of an installment received by the trust after the death of the transferor.”

“Includible gain.”

(2) EXCLUSION OF INCLUDIBLE GAIN FROM TAXABLE INCOME.—Section 641 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

26 USC 641.

“(c) EXCLUSION OF INCLUDIBLE GAIN FROM TAXABLE INCOME.—

“(1) GENERAL RULE.—For purposes of this part, the taxable income of a trust does not include the amount of any includible gain as defined in section 644(b) reduced by any deductions properly allocable thereto.

“(2) CROSS REFERENCE.—

“For the taxation of any includible gain, see section 644.”

(f) CONFORMING AMENDMENTS.—

26 USC 1302.

(1) Subparagraph (B) of subsection (a) (2), and subparagraph (B) of subsection (b) (2), of section 1302 (definition of averageable income; related definitions) are each amended by striking out “668(a)” and inserting in lieu thereof “667(a)”.

26 USC 6401.

(2) Section 6401(b) (relating to excessive credits), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out “wages),” and inserting in lieu thereof “wages) and”, and by striking out “and 667(b) (relating to taxes paid by certain trusts)”.

26 USC 1 note.

(3) Section 6401(b) (relating to excessive credits), as amended by the Tax Reduction Act of 1975, is amended by striking out “lubricating oil),” and inserting in lieu thereof “lubricating oil), and”, and by striking out “and section 667(b) (relating to taxes paid by certain trusts)”.

(g) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by striking out the items relating to sections 667, 668, and 669 and inserting in lieu thereof the following:

“Sec. 667. Treatment of amounts deemed distributed by trust in preceding years.”

(2) The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 644. Special rule for gain on property transferred to trust at less than fair market value.”

26 USC 667
note.

(h) EFFECTIVE DATES.—The amendments made by subsections (a), (b), (c), (d), and (f) of this section shall apply to distributions made in taxable years beginning after December 31, 1975. The amendments made by subsection (e) of this section shall apply to transfers in trust made after May 21, 1976.

TITLE VIII—CAPITAL FORMATION**SEC. 801. EXTENSION OF \$100,000 LIMITATION ON USED PROPERTY FOR 4 YEARS.**

26 USC 48 note.

Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 is amended by striking out “January 1, 1977” and inserting in lieu thereof “January 1, 1981”.

SEC. 802. EXTENSION OF 10 PERCENT CREDIT FOR 4 YEARS AND FIRST-IN-FIRST-OUT TREATMENT OF INVESTMENT TAX CREDIT.

26 USC 46.

(a) IN GENERAL.—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended—

(1) by redesignating paragraphs (2) through (6) as (3) through (7), respectively, and

(2) by striking out so much of such subsection as precedes paragraph (3) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof the following:

“(a) GENERAL RULE.—

“(1) FIRST-IN-FIRST-OUT RULE.—The amount of the credit allowed by section 38 for the taxable year shall be an amount equal to the sum of—

“(A) the investment credit carryovers carried to such taxable year,

“(B) the amount of the credit determined under paragraph (2) for such taxable year, plus

“(C) the investment credit carrybacks carried to such taxable year.

“(2) AMOUNT OF CREDIT FOR CURRENT TAXABLE YEAR.—

“(A) 10 PERCENT CREDIT.—Except as otherwise provided in subparagraph (B), in the case of a property described in subparagraph (D), the amount of the credit determined under this paragraph for the taxable year shall be an amount equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).

“(B) ADDITIONAL CREDIT.—In the case of a corporation which elects (at such time, in such form, and in such manner as the Secretary prescribes) to have the provisions of this subparagraph apply, the amount of the credit determined under this paragraph shall be an amount equal to—

“(i) 11 percent of the qualified investment (as determined under subsections (c) and (d)), plus

“(ii) an additional percent (not in excess of one-half percent) of the qualified investment (as determined under such subsections) equal in amount to the amount determined under section 301(e) of the Tax Reduction Act of 1975.

Post, p. 1587.

An election may not be made to have the provisions of this subparagraph apply unless the corporation meets the requirements of section 301(d) of the Tax Reduction Act of 1975.

26 USC 46 note.

“(C) 7 PERCENT CREDIT.—In the case of property not described in subparagraph (D), the amount of credit determined under this paragraph for the taxable year shall be an amount equal to 7 percent of the qualified investment (as determined under subsections (c) and (d)).

“(D) TRANSITIONAL RULES.—The provisions of subparagraphs (A) and (B) shall apply only to—

“(i) property to which subsection (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after January 21, 1975, and before January 1, 1981,

“(ii) property to which subsection (d) does not apply, acquired by the taxpayer after January 21, 1975, and before January 1, 1981, and placed in service by the taxpayer before January 1, 1981, and

“(iii) property to which subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d)) with respect to qualified progress expenditures made after January 21, 1975, and before January 1, 1981.

For purposes of applying clause (ii) of subparagraph (B), the date ‘December 31, 1976,’ shall be substituted for the date ‘January 21, 1975,’ each place it appears in this subparagraph.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (6), and (7) of section 46(a) (as redesignated by subsection (a)) are each amended by striking out “paragraph (2)” and inserting in lieu thereof “paragraph (3)”.

26 USC 46.

26 USC 46.

(2) Subsection (b) of section 46 (relating to carryback and carryover of unused credits) is amended to read as follows:

“(b) CARRYBACK AND CARRYOVER OF UNUSED CREDITS.—

“(1) IN GENERAL.—If the sum of the amount of the investment credit carryovers to the taxable year under subsection (a) (1) (A) plus the amount determined under subsection (a) (1) (B) for the taxable year exceeds the amount of the limitation imposed by subsection (a) (3) for such taxable year (hereinafter in this subsection referred to as the ‘unused credit year’), such excess attributable to the amount determined under subsection (a) (1) (B) shall be—

“(A) an investment credit carryback to each of the 3 taxable years preceding the unused credit year, and

“(B) an investment credit carryover to each of the 7 taxable years following the unused credit year, and, subject to the limitations imposed by paragraphs (2) and (3), shall be taken into account under the provisions of subsection (a) (1) in the manner provided in such subsection. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried and then to each of the other 9 taxable years to the extent, because of the limitations imposed by paragraphs (2) and (3), such unused credit may not be taken into account under subsection (a) (1) for a prior taxable year to which such unused credit may be carried. In the case of an unused credit for an unused credit year ending before January 1, 1971, which is an investment credit carryover to a taxable year beginning after December 31, 1970 (determined without regard to this sentence), this paragraph shall be applied—

“(C) by substituting ‘10 taxable years’ for ‘7 taxable years’ in subparagraph (B), and by substituting ‘13 taxable years’ for ‘10 taxable years’, and ‘12 taxable years’ for ‘9 taxable years’ in the preceding sentence, and

“(D) by carrying such an investment credit carryover to a later taxable year (than the taxable year to which it would, but for this subparagraph, be carried) to which it may be carried if, because of the amendments made by section 802 (b) (2) of the Tax Reform Act of 1976, carrying such carryover to the taxable year to which it would, but for this subparagraph, be carried would cause a portion of an unused credit from an unused credit year ending after December 31, 1970 to expire.

“(2) LIMITATION ON CARRYBACKS.—The amount of the unused credit which may be taken into account under subsection (a) (1) for any preceding taxable year shall not exceed the amount by which the limitation imposed by subsection (a) (3) for such taxable year exceeds the sum of—

“(A) the amounts determined under subparagraphs (A) and (B) of subsection (a) (1) for such taxable year, plus

“(B) the amounts which (by reason of this subsection) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

“(3) LIMITATION ON CARRYOVERS.—The amount of the unused credit which may be taken into account under subsection (a) (1) (A) for any succeeding taxable year shall not exceed the

amount by which the limitation imposed by subsection (a) (3) for such taxable year exceeds the sum of the amounts which, by reason of this subsection, are carried to such taxable year and are attributable to taxable years preceding the unused credit year."

(3) Subparagraph (A) of section 46(c) (3) (relating to public utility property) is amended by striking out "subsection (a) (1) (C)" and inserting in lieu thereof "subsection (a) (2) (C)". 26 USC 46.

(4) Paragraph (1) of section 46(e) (relating to limitations with respect to certain persons) is amended by striking out "subsection (a) (2)" and inserting in lieu thereof "subsection (a) (3)".

(5) The first sentence of section 46 (f) (8) (relating to prohibition of immediate flowthrough of investment credit) is amended by inserting after "the Tax Reduction Act of 1975" the following: "and the Tax Reform Act of 1976".

(6) Subsection (f) of section 48 (relating to estates and trusts) is amended by striking out "section 46(a) (2)" and inserting in lieu thereof "section 46(a) (3)". 26 USC 48.

(7) Section 301(d) of the Tax Reduction Act of 1975 is amended by striking out "section 46(a) (1) (B)" each place it appears and inserting in lieu thereof "section 46(a) (2) (B)". 26 USC 46 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975. 26 USC 46 note.

SEC. 803. EMPLOYEE STOCK OWNERSHIP PLANS; STUDY OF EXPANDED STOCK OWNERSHIP.

(a) AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.—Section 46(f) (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following new paragraph: 26 USC 46.

"(9) SPECIAL RULE FOR ADDITIONAL CREDIT.—If the taxpayer makes an election under subparagraph (B) of subsection (a) (2), for a taxable year beginning after December 31, 1975, then, notwithstanding the prior paragraphs of this subsection, no credit shall be allowed by section 38 in excess of the amount which would be allowed without regard to the provisions of subparagraph (B) of subsection (a) (2) if—

"(A) the taxpayer's cost of service for ratemaking purposes or in its regulated books of account is reduced by reason of any portion of such credit which results from the transfer of employer securities or cash to an employee stock ownership plan which meets the requirements of section 301(d) of the Tax Reduction Act of 1975;

"(B) the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of such credit which results from a transfer described in subparagraph (A) to such employee stock ownership plan; or

"(C) any portion of the amount of such credit which results from a transfer described in subparagraph (A) to such employee stock ownership plan is treated for ratemaking purposes in any way other than as though it had been contributed by the taxpayer's common shareholders."

(b) SPECIAL RULES.—

(1) Paragraph (4) of section 46(f) is amended—

(A) by striking out "paragraphs (1) and (2)" in subparagraph (A) and inserting in lieu thereof "paragraphs (1), (2), and (9)";

(B) by striking out “paragraph (1) or (2)” each place it appears in subparagraph (A) and inserting in lieu thereof “paragraph (1), (2), or (9)”;

(C) by striking out “paragraph (2),” in subparagraph (B) (ii) and inserting in lieu thereof “paragraph (2) or the election described in paragraph (9).”

26 USC 401.

(2) Section 401(a) (relating to qualified pension, etc., plans) is amended by adding after paragraph (20) the following new paragraph:

“(21) A trust forming part of an employee stock ownership plan which satisfies the requirements of section 301(d) of the Tax Reduction Act of 1975 shall not fail to be considered a permanent program merely because employer contributions under the plan are determined solely by reference to the amount of credit which would be allowable under section 46(a) if the employer made the transfer described in subsection (d)(6) or (e)(3) of section 301 of the Tax Reduction Act of 1975.”

Infra.

Post, p. 1587

26 USC 1504.

(3) Section 1504(a) is amended by striking out “dividends,” at the end thereof and inserting in lieu thereof “dividends, employer securities within the meaning of section 301(d)(9)(A) of the Tax Reduction Act of 1975, or qualifying employer securities within the meaning of section 4975(e)(8) while such securities are held under an employee stock ownership plan which meets the requirements of section 301(d) of such Act or section 4975(e)(7), respectively.”

26 USC 415.

(4) Section 415(e)(5) is amended by striking out “For purposes of this subsection,” and inserting in lieu thereof “For purposes of this section.”

26 USC 46 note.

(c) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL CREDIT.—Section 301(d) of the Tax Reduction Act of 1975 is amended—

(1) by adding at the end of paragraph (3) the following sentence: “For purposes of this paragraph, the amount of compensation paid to a participant for a year is the amount of such participant’s compensation within the meaning of section 415(c)(3) of such Code for such year.”

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

“(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund—

“(A) in the case of a taxable year beginning before January 1, 1977, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46(c) and (d) of such Code) of the taxpayer for the taxable year, and

“(B) in the case of a taxable year beginning after December 31, 1976—

“(i) to transfer employer securities to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46(c) and (d) of such Code) of the employer for the taxable year,

“(ii) except as provided in clause (iii), to effect the transfer not later than 30 days after the time (including extensions) for filing its income tax return for a taxable year, and

“(iii) in the case of an employer whose credit (as determined under section 46(a)(2)(B) of such Code) for a taxable year beginning after December 31, 1976, exceeds the limitations of paragraph (3) of section 46(a) of such Code—

Ante, p. 1580.

“(I) to effect that portion of the transfer allocable to investment credit carrybacks of such excess credit at the time required under clause (ii) for the unused credit year (within the meaning of section 46(b) of such Code), and

“(II) to effect that portion of the transfer allocable to investment credit carryovers of such excess credit at the time required under clause (ii) for the taxable year to which such portion is carried over.

For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.”

(3) by deleting paragraph (8) and inserting in lieu thereof the following:

“(8) (A) Except as provided in subparagraph (B) (iii), if the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured or redetermined in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and subsection (e) and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the plan.

“(B) If the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured in accordance with the provisions of such Code—

“(i) the employer may reduce the amount required to be transferred to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the current taxable year or any succeeding taxable years by the portion of the amount so recaptured which is attributable to the contribution to such plan,

“(ii) notwithstanding the provisions of paragraph (12), the employer may deduct such portion, subject to the limitations of section 404 of such Code (relating to deductions for contributions to an employees' trust or plan), or

26 USC 404.

“(iii) if the requirements of subsection (f)(1) are met, the employer may withdraw from the plan an amount not in excess of such portion.

“(C) If the amount of the credit claimed by an employer for a prior taxable year under section 38 of the Internal Revenue Code of 1954 is reduced because of a redetermination which becomes final during the taxable year, and the employer transferred amounts to a plan which were taken into account for purposes of this subsection for that prior taxable year, then—

“(i) the employer may reduce the amount it is required to transfer to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the taxable year or any succeeding taxable year by the portion of the amount of such reduction in the credit or increase in tax which is attributable to the contribution to such plan, or

“(ii) notwithstanding the provisions of paragraph (12), the employer may deduct such portion subject to the limitations of section 404 of such Code.”,

(4) by striking out “in control of the employer (within the meaning of section 368(c) of the Internal Revenue Code of 1954)” in paragraph (9) (A) and inserting in lieu thereof “a member of a controlled group of corporations which includes the employer (within the meaning of section 1563(a) of the Internal Revenue Code of 1954, determined without regard to section 1563(a) (4) and (e) (3) (C) of such Code)”, and

(5) by adding at the end thereof the following new paragraphs:

“(13) (A) As reimbursement for the expense of establishing the plan, the employer may withhold from amounts due the plan for the taxable year for which the plan is established, or the plan may pay, so much of the amounts paid or incurred in connection with the establishment of the plan as does not exceed the sum of 10 percent of the first \$100,000 that the employer is required to transfer to the plan for that taxable year under paragraph (6) (including any amounts transferred under subsection (e) (3)) and 5 percent of any amount in excess of the first \$100,000 of such amount.

“(B) As reimbursement for the expense of administering the plan, the employer may withhold from amounts due the plan, or the plan may pay, so much of the amounts paid or incurred during the taxable year as expenses of administering the plan as does not exceed the smaller of—

“(i) the sum of 10 percent of the first \$100,000 and 5 percent of any amount in excess of \$100,000 of the income from dividends paid to the plan with respect to stock of the employer during the plan year ending with or within the employer's taxable year, or

“(ii) \$100,000.

“(14) The return of a contribution made by an employer to an employee stock ownership plan designed to satisfy the requirements of this subsection or subsection (e) (or a provision for such a return) does not fail to satisfy the requirements of this subsection, subsection (e), section 401(a) of the Internal Revenue Code of 1954, or section 403(c) (1) of the Employee Retirement Income Security Act of 1974 if—

“(A) the contribution is conditioned under the plan upon determination by the Secretary of the Treasury that such plan meets the applicable requirements of this subsection, subsection (e), or section 401(a) of such Code,

“(B) the application for such a determination is filed with the Secretary not later than 90 days after the date on which the credit under section 38 is allowed, and

“(C) the contribution is returned within one year after the date on which the Secretary issues notice to the employer that such plan does not satisfy the requirements of this subsection, subsection (e), or section 401(a) of such Code.”

(d) **PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL ONE-HALF PERCENT CREDIT.**—Section 301 of the Tax Reduction Act of 1975 (relating to increase in investment credit) is amended by adding at the end thereof the following new subsections:

26 USC 46 note.

“(e) **PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL ONE-HALF PERCENT CREDIT.**—

“(1) **GENERAL RULE.**—For purposes of clause (ii) of section 46 (a) (2) (B) of the Internal Revenue Code of 1954, the amount determined under this subsection for a taxable year is an amount equal to the sum of the matching employee contributions for the taxable year which meet the requirements of this subsection.

“(2) **ELECTION; BASIC PLAN REQUIREMENTS.**—No amount shall be determined under this subsection for the taxable year unless the corporation elects to have this subsection apply for that year. A corporation may not elect to have the provisions of this subsection apply for a taxable year unless the corporation meets the requirements of subsection (d) and the requirements of this subsection.

“(3) **EMPLOYER CONTRIBUTION.**—On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer shall state in such claim that the employer agrees, as a condition of receiving any such credit, adjustment, or refund attributable to the provisions of section 46 (a) (2) (B) (ii) of such Code, to transfer at the time described in subsection (d) (6) (B) employer securities (as defined in subsection (d) (9) (A)) to the plan having an aggregate value at the time of the transfer of not more than one-half of one percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) of the taxpayer for the taxable year. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

“(4) **REQUIREMENTS RELATING TO MATCHING EMPLOYEE CONTRIBUTIONS.**—

“(A) An amount contributed by an employee under a plan described in subsection (d) for the taxable year may not be treated as a matching employee contribution for that taxable year under this subsection unless—

“(i) each employee who participates in the plan described in subsection (d) is entitled to make such a contribution,

“(ii) the contribution is designated by the employee as a contribution intended to be used for matching employer amounts transferred under paragraph (3) to a plan which meets the requirements of this subsection, and

“(iii) the contribution is in the form of an amount paid in cash to the employer or plan administrator not later than 24 months after the close of the taxable year in which the portion of the credit allowed by section 38 of such Code (and determined under clause (ii) of section 46 (a) (2) (B) of such Code which the contribution is to match) is allowed, and is invested forthwith in employer securities (as defined in subsection (d) (9) (A)).

“(B) The sum of the amounts of matching employee contributions taken into account for purposes of this subsection

for any taxable year may not exceed the value (at the time of transfer) of the employer securities transferred to the plan in accordance with the requirements of paragraph (3) for the year for which the employee contributions are designated as matching contributions.

“(C) The employer may not make participation in the plan a condition of employment and the plan may not require matching employee contributions as a condition of participation in the plan.

“(D) Employee contributions under the plan must meet the requirements of section 401(a)(4) of such Code (relating to contributions).

“(5) A plan must provide for allocation of all employer securities transferred to it or purchased by it under this subsection to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of the plan year in an amount equal to his matching employee contributions for the year. Matching employee contributions and amounts so allocated shall be deemed to be allocated under subsection (d)(3).

“(f) RECAPTURE.—

“(1) GENERAL RULE.—Amounts transferred to a plan under subsection (d)(6) or (e)(3) may be withdrawn from the plan by the employer if the plan provides that while subject to recapture—

“(A) amounts so transferred with respect to a taxable year are segregated from other plan assets, and

“(B) separate accounts are maintained for participants on whose behalf amounts so transferred have been allocated for a taxable year.

“(2) COORDINATION WITH OTHER LAW.—Notwithstanding any other law or rule of law, an amount withdrawn by the employer will neither fail to be considered to be nonforfeitable nor fail to be for the exclusive benefit of participants or their beneficiaries merely because of the withdrawal from the plan of—

“(A) amounts described in paragraph (1), or

“(B) employer amounts transferred under subsection (e)(3) to the plan which are not matched by matching employee contributions or which are in excess of the limitations of section 415 of such Code,

nor will the withdrawal of any such amount be considered to violate the provisions of section 403(c)(1) of the Employee Retirement Income Security Act of 1974.”

(e) CLERICAL AMENDMENT.—

(1) The heading of section 301(d) of the Tax Reduction Act of 1975 is amended by striking out “11-PERCENT” and inserting in lieu thereof “ADDITIONAL”.

(2) Section 301(d) of the Tax Reduction Act of 1975 is amended by—

(A) striking out “A corporation” in paragraph (1) and inserting in lieu thereof “Except as expressly provided in subsections (e) and (f), a corporation”,

(B) inserting “or subsection (e)(3)” in paragraph (7)(A) immediately after “(6)”,

(C) striking out “this subsection” in paragraph (10) and substituting in lieu thereof “this subsection and subsections (e) and (f)”, and

Ante, pp. 1584, 1587.

29 USC 1103.

26 USC 46 note.

(D) striking out “this subsection” each time it appears in paragraph (11) and substituting in lieu thereof “this subsection or subsection (e) or (f)”.

(f) LIMITATIONS ON CONTRIBUTIONS.—

(1) SPECIAL LIMITATION FOR EMPLOYEE STOCK OWNERSHIP PLANS.—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph:

26 USC 415.

“(6) SPECIAL LIMITATION FOR EMPLOYEE STOCK OWNERSHIP PLAN.—

“(A) In the case of an employee stock ownership plan (as defined in subparagraph (B)), under which no more than one-third of the employer contributions for a year are allocated to the group of employees consisting of officers, shareholders owning more than 10 percent of the employer’s stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii), the amount described in paragraph (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1)) for a year with respect to any participant shall be equal to the sum of (i) the amount described in paragraph (c)(1)(A) (as so adjusted) determined without regard to this paragraph and (ii) the lesser of the amount determined under clause (i) or the amount of employer securities contributed to the employee stock ownership plan.

“(B) For purposes of this paragraph—

Definitions.

“(i) the term ‘employee stock ownership plan’ means a plan which meets the requirements of section 4975(c)(7) or section 301(d) of the Tax Reduction Act of 1975,

26 USC 46 note.

“(ii) the term ‘employer securities’ means, in the case of an employee stock ownership plan within the meaning of section 4975(c)(7), qualifying employer securities within the meaning of section 4975(c)(8), but only if they are described in section 301(d)(9)(A) of the Tax Reduction Act of 1975, or, in the case of an employee stock ownership plan described in section 301(d)(2) of the Tax Reduction Act of 1975, employer securities within the meaning of section 301(d)(9)(A) of such Act,

“(iii) an employee described in this clause is any participant whose compensation for a year exceeds an amount equal to twice the amount described in paragraph (1)(A) for such year (as adjusted for such year pursuant to subsection (d)(1)), determined without regard to subparagraph (A) of this paragraph, and

“(iv) an individual shall be considered to own more than 10 percent of the employer’s stock if, without regard to stock held under the employee stock ownership plan, he owns (after application of section 1563(e)) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.”

(2) CONFORMING AMENDMENT.—Paragraph (3)(B) of section 415(e) (relating to defined contribution plan fraction) is amended by inserting “determined without regard to paragraph (6) of such subsection)” after “employer”.

(g) WAIVER OF PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX.—

26 USC 6655 note.

If—

(1) a corporation made underpayments of estimated tax for a taxable year of the corporation which includes August 1, 1975, because the corporation intended to elect to have the provisions of subparagraph (B) of section 46(a)(1) of the Internal Revenue Code of 1954 (as it existed before the date of enactment of this Act) apply for such taxable year, and

Ante, p. 1520.

(2) the corporation does not elect to have the provisions of such subparagraph apply for such taxable year because this Act does not contain the amendments made by section 804(a)(2) (relating to flowthrough of investment credit), or the provisions of subsection (f) of such section (relating to grace period for certain plan transfers), of the bill H.R. 10612 (94th Congress, 2d Session), as amended by the Senate,

then the provisions of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) shall not apply to so much of any such underpayment as the corporation can establish, to the satisfaction of the Secretary of the Treasury, is properly attributable to the inapplicability of such subparagraph (B) for such taxable year.

26 USC 4975
note.

45 USC 701
note.

29 USC 1001
note.

19 USC 2101.
26 USC 1 note.

(h) INTENT OF CONGRESS CONCERNING EMPLOYEE STOCK OWNERSHIP PLANS.—The Congress, in a series of laws (the Regional Rail Reorganization Act of 1973, the Employee Retirement Income Security Act of 1974, the Trade Act of 1974, and the Tax Reduction Act of 1975) and this Act has made clear its interest in encouraging employee stock ownership plans as a bold and innovative method of strengthening the free private enterprise system which will solve the dual problems of securing capital funds for necessary capital growth and of bringing about stock ownership by all corporate employees. The Congress is deeply concerned that the objectives sought by this series of laws will be made unattainable by regulations and rulings which treat employee stock ownership plans as conventional retirement plans, which reduce the freedom of the employee trusts and employers to take the necessary steps to implement the plans, and which otherwise block the establishment and success of these plans. Because of the special purposes for which employee stock ownership plans are established, it is consistent with the intent of Congress to permit these plans (whether structured as pension, stock bonus, or profit-sharing plans) to distribute income on employer securities currently.

(i) STUDY OF EXPANDED STOCK OWNERSHIP.—

29 USC 1222.

(1) IN GENERAL.—Section 3022(a) of the Employee Retirement Income Security Act of 1974 (relating to duties of Joint Pension Task Force) is amended—

(A) by redesignating paragraphs (4) and (5) as (5) and (6), and

(B) by inserting after paragraph (3) the following new paragraph:

“(4) the broadening of stock ownership, particularly with regard to employee stock ownership plans (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954 and section 407(d)(6) of this Act) and all other alternative methods for broadening stock ownership to the American labor force and others;”.

26 USC 4975.

29 USC 1107.

(2) CHANGE OF TITLE.—

(A) Subtitle B of title III of such Act is amended—

(i) by striking out “**Pension**” in the caption of such subtitle and inserting in lieu thereof “**Pension, Profit-sharing, and Employee Stock Ownership Plan**”,

(ii) by striking out "PENSION" in the caption of part 1 of such subtitle and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN", and

(iii) by striking out "Joint Pension" each place it appears in sections 3021 and 3022 and inserting in lieu thereof the following: "Joint Pension, Profit-sharing, and Employee Stock Ownership Plan". 29 USC 1221, 1222.

(B) The table of contents of such Act is amended—

(i) by striking out "PENSION" in the item relating to title III and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN",

(ii) by striking out "PENSION" in the item relating to subtitle B of title III and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN", and

(iii) by striking out "PENSION" in the item relating to part 1 of subtitle B of title III and inserting in lieu thereof "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN".

(j) EFFECTIVE DATES.—

26 USC 46 note.

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply for taxable years beginning after December 31, 1974.

(2) EXCEPTIONS.—

(A) Section 301(e) of the Tax Reduction Act of 1975, as added by subsection (d), shall apply for taxable years beginning after December 31, 1976. *Ante*, p. 1587.

(B) The amendments made by subsections (a) and (b) (1) shall apply for taxable years beginning after December 31, 1975.

(C) The amendments made by subsections (b) (4) and (f) shall apply for years beginning after December 31, 1975.

SEC. 804. INVESTMENT CREDIT IN THE CASE OF MOVIE AND TELEVISION FILMS.

(a) SPECIAL RULES FOR MOVIE AND TELEVISION FILMS.—Section 48 (relating to definitions and special rules for purposes of the investment credit) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection: 26 USC 48.

"(k) MOVIE AND TELEVISION FILMS.—

"(1) ENTITLEMENT TO CREDIT.—

"(A) IN GENERAL.—A credit shall be allowable under section 38 to a taxpayer with respect to any motion picture film or video tape—

"(i) only if such film or tape is new section 38 property (determined without regard to useful life) which is a qualified film, and

"(ii) only to the extent that the taxpayer has an ownership interest in such film or tape.

"(B) QUALIFIED FILM DEFINED.—For purposes of this subsection, the term 'qualified film' means any motion picture film or video tape created primarily for use as public entertainment or for educational purposes. Such term does not include any film or tape the market for which is primarily topical or is otherwise essentially transitory in nature.

“(C) OWNERSHIP INTEREST.—For purposes of this subsection, a person’s ‘ownership interest’ in a qualified film shall be determined on the basis of his proportionate share of any loss which may be incurred with respect to the production costs of such film.

“(2) APPLICABLE PERCENTAGE TO BE 66%.—Except as provided in paragraph (3), the applicable percentage under section 46(c) (2) for any qualified film shall be 66⅔ percent.

“(3) ELECTION OF 90-PERCENT RULE.—

“(A) IN GENERAL.—If the taxpayer makes an election under this paragraph, the applicable percentage under section 46 (c) (2) shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a deduction under section 167 would equal or exceed 90 percent of the basis of the film.

“(B) MAKING OF ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply for the taxable year for which it is made and for all subsequent taxable years and may be revoked only with the consent of the Secretary.

“(C) WHO MAY ELECT.—If for any prior taxable year paragraph (2) of this subsection applied to the taxpayer or any related business entity, or if for the taxable year paragraph (2) applies to any related business entity, an election under this paragraph may be made by the taxpayer only with the consent of the Secretary.

“(D) RELATED BUSINESS ENTITY.—Two or more corporations, partnerships, trusts, estates, proprietorships, or other entities shall be treated as related business entities if 50 percent or more of the beneficial interest in each of such entities is owned by the same or related persons (taking into account only persons who own at least 10 percent of such beneficial interest). For purposes of this subparagraph, a person is a related person to another person if—

“(i) such persons are component members of a controlled group of corporations (within the meaning of section 1563(a), except that section 1563(b) (2) shall not apply and except that ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears in section 1563(a)), or

“(ii) the relationship between such persons would result in a disallowance of losses under section 267 or 707 (b), except that for these purposes a family of an individual includes only his spouse and minor children.

For purposes of this subparagraph, the term ‘beneficial interest’ means voting stock in the case of a corporation, profits interest or capital interest in the case of a partnership, or beneficial interest in the case of a trust or estate.

“(4) PREDOMINANT USE TEST; QUALIFIED INVESTMENT.—In the case of any qualified film—

“(A) section 48(a) (2) shall not apply, and

“(B) in determining qualified investment under section 46(c) (1), there shall be issued (in lieu of the basis of the property) an amount equal to the qualified United States production costs (as defined in paragraph (5)).

“Beneficial interest.”

“(5) QUALIFIED UNITED STATES PRODUCTION COSTS.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified United States production costs’ means with respect to any film—

“(i) direct production costs allocable to the United States, plus

“(ii) if 80 percent or more of the direct production costs are allocable to the United States, all other production costs other than direct production costs allocable outside the United States.

“(B) PRODUCTION COSTS.—For purposes of this subsection, the term ‘production costs’ includes—

“(i) a reasonable allocation of general overhead costs,

“(ii) compensation (other than participations described in clause (vi)) for services performed by actors, production personnel, directors, and producers,

“(iii) costs of ‘first’ distribution of prints,

“(iv) the cost of the screen rights and other material being filmed,

“(v) ‘residuals’ payable under contracts with labor organizations, and

“(vi) participations payable as compensation to actors, production personnel, directors, and producers.

Participations in all qualified films placed in service by a taxpayer during a taxable year shall be taken into account under clause (vi) only to the extent of the lesser of 25 percent of each such participation or 12½ percent of the aggregate qualified United States production costs (other than costs described in clauses (v) and (vi) of this subparagraph) for such films, but taking into account for both the 25 percent limit and 12½ percent limit no more than \$1,000,000 in participations for any one individual with respect to any one film. For purposes of this subparagraph (other than clauses (v) and (vi) and the preceding sentence), costs shall be taken into account only if they are capitalized.

“(C) DIRECT PRODUCTION COSTS.—For purposes of this paragraph, the term ‘direct production costs’ does not include items referred to in clause (i), (iv), (v), or (vi) of subparagraph (B). The term also does not include advertising and promotional costs and such other costs as may be provided in regulations prescribed by the Secretary.

“(D) ALLOCATION OF DIRECT PRODUCTION COSTS.—For purposes of this paragraph—

“(i) Compensation for services performed shall be allocated to the country in which the services are performed, except that payments to United States persons for services performed outside the United States shall be allocated to the United States. For purposes of the preceding sentence, payments to an electing small business corporation (within the meaning of section 1371) or a partnership shall be considered payments to a United States person only to the extent that such payments are included in the gross income of a United States person other than an electing small business corporation or partnership.

“(ii) Amounts for equipment and supplies shall be allocated to the country in which, with respect to the production of the film, the predominant use occurs.

“(iii) All other items shall be allocated under regulations prescribed by the Secretary which are consistent with the allocation principle set forth in clause (ii).

“(6) UNITED STATES.—For purposes of this subsection, the term ‘United States’ includes the possessions of the United States.”

26 USC 47.

(b) OVERESTIMATION OF USEFUL LIFE AND DISPOSITIONS WHERE 90 PERCENT RULE APPLIES.—Section 47(a) (relating to certain dispositions, etc., of section 38 property) is amended by adding after paragraph (6) the following new paragraph:

“(7) MOTION PICTURE FILMS AND VIDEO TAPES.—

Ante, p. 1591.

“(A) DISPOSITION WHERE DEPRECIATION EXCEEDS 90 PERCENT OF BASIS OR COST.—A qualified film (within the meaning of section 48(k)(1)(B)) which has an applicable percentage determined under section 48(k)(3) shall cease to be section 38 property with respect to the taxpayer at the close of the first day on which the aggregate amount allowable as a deduction under section 167 equals or exceeds 90 percent of the basis or cost of such film (adjusted for any partial dispositions).

“Affiliated group.”

“(B) OTHER DISPOSITIONS.—In the case of a disposition of the exclusive right to display a qualified film which has an applicable percentage determined under section 48(k)(3) in one or more mediums of publication or exhibition in one or more specifically defined geographical areas over the remaining initial period of commercial exploitation of the film or tape in such geographical areas, the taxpayer shall be considered to have disposed of all or part of such film or tape and shall recompute the credit earned on all of his basis or cost or on that part of the basis or cost properly allocable to that part of the film or tape disposed of. In the case of an affiliated group of corporations, a transfer within the affiliated group shall not be treated as a disposition until there is a transfer outside the group. For purposes of the preceding sentence, the term ‘affiliated group’ has the meaning given to such term by section 1504 (determined as if section 1504(b) did not include paragraph (3) thereof). For purposes of this paragraph, section 1504(a) shall be applied by substituting ‘50 percent’ for ‘80 percent’ each place it appears.”

26 USC 48 note.

(c) ALTERNATIVE METHODS OF COMPUTING CREDIT FOR PAST PERIODS.—

Ante, p. 1591.

(1) GENERAL RULE FOR DETERMINING USEFUL LIFE, PREDOMINANT FOREIGN USE, ETC.—In the case of a qualified film (within the meaning of section 48(k)(1)(B) of the Internal Revenue Code of 1954) placed in service in a taxable year beginning before January 1, 1975, with respect to which neither an election under paragraph (2) of this subsection nor an election under subsection (e) (2) applies—

(A) the applicable percentage under section 46(c)(2) of such Code shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a

deduction under section 167 of such Code would equal or exceed 90 percent of the basis of such property (adjusted for any partial dispositions),

(B) for purposes of section 46(c)(1) of such Code, the basis of the property shall be determined by taking into account the total production costs (within the meaning of section 48(k)(5)(B) of such Code),

(C) for purposes of section 48(a)(2) of such Code, such film shall be considered to be used predominantly outside the United States in the first taxable year for which 50 percent or more of the gross revenues received or accrued during the taxable year from showing the film were received or accrued from showing the film outside the United States, and

(D) Section 47(a)(7) of such Code shall apply.

(2) ELECTION OF 40-PERCENT METHOD.—

(A) IN GENERAL.—A taxpayer may elect to have this paragraph apply to all qualified films placed in service during taxable years beginning before January 1, 1975 (other than films to which an election under subsection (e)(2) of this section applies).

(B) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph, then section 48(k) of the Internal Revenue Code of 1954 shall apply to all qualified films described in subparagraph (A) with the following modifications:

(i) subparagraph (B) of paragraph (4) shall not apply, but in determining qualified investment under section 46(c)(1) of such Code, there shall be used (in lieu of the basis of such property) an amount equal to 40 percent of the aggregate production costs (within the meaning of paragraph (5)(B) of such section 48(k)),

(ii) paragraph (2) shall be applied by substituting “100 percent” for “66 $\frac{2}{3}$ percent”, and

(iii) paragraph (3) and paragraph (5) (other than subparagraph (B)) shall not apply.

(C) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 6 months after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Such an election may be revoked only with the consent of the Secretary of the Treasury or his delegate.

Regulations.

(D) THE TAXPAYER MUST CONSENT TO JOIN IN CERTAIN PROCEEDINGS.—No election may be made under this paragraph or subsection (e)(2) by any taxpayer unless he consents, under regulations prescribed by the Secretary of the Treasury or his delegate, to treat the determination of the investment credit allowable on each film subject to an election as a separate cause of action, and to join in any judicial proceeding for determining the person entitled to, and the amount of, the credit allowable under section 38 of the Internal Revenue Code of 1954 with respect to any film covered by such election.

(3) ELECTION TO HAVE CREDIT DETERMINED IN ACCORDANCE WITH PREVIOUS LITIGATION.—

(A) IN GENERAL.—A taxpayer described in subparagraph

(B) may elect to have this paragraph apply to all films (whether or not qualified) placed in service in taxable years

beginning before January 1, 1975, and with respect to which an election under subsection (e) (2) is not made.

(B) WHO MAY ELECT.—A taxpayer may make an election under this paragraph if he has filed an action in any court of competent jurisdiction, before January 1, 1976, for a determination of such taxpayer's rights to the allowance of a credit against tax under section 38 of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1975, with respect to any film.

(C) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph—

(i) paragraphs (1) and (2) of this subsection, and subsection (d) shall not apply to any film placed in service by the taxpayer, and

(ii) subsection 48(k) of the Internal Revenue Code of 1954 shall not apply to any film placed in service by the taxpayer in any taxable year beginning before January 1, 1975, and with respect to which an election under subsection (e) (2) is not made,

and the right of the taxpayer to the allowance of a credit against tax under section 38 of such Code with respect to any film placed in service in any taxable year beginning before January 1, 1975, and as to which an election under subsection (e) (2) is not made, shall be determined as though this section (other than this paragraph) has not been enacted.

(D) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 90 days after the date of the enactment of this Act, by filing a notification of such election with the national office of the Internal Revenue Service. Such an election, once made, shall be irrevocable.

(d) ENTITLEMENT TO CREDIT.—Paragraph (1) of section 48(k) of the Internal Revenue Code of 1954 (relating to entitlement to credit) shall apply to any motion picture film or video tape placed in service in any taxable year beginning before January 1, 1975.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1974.

(2) ELECTION MAY ALSO APPLY TO PROPERTY DESCRIBED IN SECTION 50(a).—At the election of the taxpayer, made within 1 year after the date of the enactment of this Act in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe, the amendments made by subsections (a) and (b) shall also apply to property which is property described in section 50(a) of the Internal Revenue Code of 1954 and which is placed in service in taxable years beginning before January 1, 1975.

SEC. 805. INVESTMENT CREDIT IN THE CASE OF CERTAIN SHIPS.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

“(g) 50 PERCENT CREDIT IN THE CASE OF CERTAIN VESSELS.—

“(1) IN GENERAL.—In the case of a qualified withdrawal out of the untaxed portion of a capital gain account or out of an ordinary income account in a capital construction fund established under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), for—

Ante, p. 1591.

26 USC 48 note.

26 USC 48 note.

26 USC 46.

“(A) the acquisition, construction, or reconstruction of a qualified vessel, or

“(B) the acquisition, construction, or reconstruction of barges or containers which are part of the complement of a qualified vessel and to which subsection (f)(1)(B) of such section 607 applies,

46 USC 1177.

for purposes of section 38 there shall be deemed to have been made (at the time of such withdrawal) a qualified investment (within the meaning of subsection (c)) or qualified progress expenditures (within the meaning of subsection (d)), whichever is appropriate, with respect to property which is section 38 property.

“(2) **AMOUNT OF CREDIT.**—For purposes of paragraph (1), the amount of the qualified investment shall be 50 percent of the applicable percentage of the qualified withdrawal referred to in paragraph (1), or the amount of the qualified progress expenditures shall be 50 percent of such withdrawal, as the case may be. For purposes of determining the amount of the credit allowable by reason of this subsection for any taxable year, the limitation of subsection (a)(3) shall be determined without regard to subsection (d)(1)(A) of such section 607.

“(3) **COORDINATION WITH SECTION 38.**—The amount of the credit allowable by reason of this subsection with respect to any property shall be the minimum amount allowable under section 38 with respect to such property. If, without regard to this subsection, a greater amount is allowable under section 38 with respect to such property, then such greater amount shall apply and this subsection shall not apply.

“(4) **COORDINATION WITH SECTION 47.**—Section 47 shall be applied—

“(A) to any property to which this subsection applies, and

“(B) to the payment (out of the untaxed portion of a capital gain account or out of the ordinary income account of a capital construction fund established under section 607 of the Merchant Marine Act, 1936) of the principal of any indebtedness incurred in connection with property with respect to which a credit was allowed under section 38.

For purposes of section 47, any payment described in subparagraph (B) of the preceding sentence shall be treated as a disposition occurring less than 3 years after the property was placed in service; but, in the case of a credit allowable without regard to this subsection, the aggregate amount which may be recaptured by reason of this sentence shall not exceed 50 percent of such credit.

“(5) **DEFINITIONS.**—Any term used in section 607 of the Merchant Marine Act, 1970, shall have the same meaning when used in this subsection.

46 USC 1177.

“(6) **NO INFERENCE.**—Nothing in this subsection shall be construed to infer that any property described in this subsection is or is not section 38 property, and any determination of such issue shall be made as if this subsection had not been enacted.”

(b) **EFFECTIVE DATES.**—

26 USC 46 note.

(1) **IN GENERAL.**—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975, in the case of property placed in service after such date.

Ante, p. 1596. (2) SECTION 46(g)(4).—Section 46(g)(4) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning after December 31, 1975.

SEC. 806. ADDITIONAL NET OPERATING LOSS CARRYOVER YEARS; LIMITATIONS ON NET OPERATING LOSS CARRYOVERS.

26 USC 172.
Post, p. 1755. (a) IN GENERAL.—Section 172(b)(1)(B), as amended by section 1606(b) of this Act, is amended by adding at the end thereof the following new sentence: “Except as provided in subparagraphs (C), (D), (E), and (F), a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 7 taxable years following the taxable year of such loss.”

Post, p. 1769. (b) REGULATED TRANSPORTATION CORPORATIONS.—
(1) IN GENERAL.—Section 172(b)(1)(C) is amended by adding at the end thereof the following new sentence: “For any taxable year ending after December 31, 1975, the preceding sentence shall be applied by substituting ‘9 taxable years’ for ‘7 taxable years’.”

Post, p. 1769. (2) CONFORMING AMENDMENT.—Paragraph (3) of section 172(g), as amended by section 1901(a)(29) of this Act, is amended—
(A) by striking “and” at the end of subparagraph (A);
(B) by striking the period at the end of subparagraph (B) and inserting in lieu thereof “; and”; and
(C) by adding at the end thereof the following new subparagraph:

“(C) in the case of a net operating loss carryover from a loss year ending after December 31, 1975, subparagraphs (A) and (B) shall be applied by substituting ‘8th taxable year’ for the ‘6th taxable year’ and ‘9th taxable year’ for ‘7th taxable year.’”

Post, p. 1769. (c) ELECTION TO FOREGO CARRYBACK PERIOD.—Section 172(b)(3), as amended by section 1901(a)(29) of this Act, is amended by adding at the end thereof the following new subparagraph:

“(E) Any taxpayer entitled to a carryback period under paragraph (1) may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1975. Such election shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss for which the election is to be in effect. Such election, once made for any taxable year, shall be irrevocable for that taxable year.”

(d) INSURANCE COMPANIES.—

26 USC 812. (1) LIFE INSURANCE COMPANIES.—
(A) IN GENERAL.—Paragraph (1) of section 812(b) is amended by adding at the end thereof the following new sentence:

“In the case of an operations loss for any taxable year ending after December 31, 1975, this paragraph shall be applied by substituting ‘7 taxable years’ for ‘5 taxable years’.”

(B) ELECTION TO FOREGO CARRYBACK PERIODS.—Section 812(b) is amended by adding at the end thereof the following new paragraph:

(3) ELECTION FOR OPERATIONS LOSS CARRYBACKS.—In the case of a loss from operations for any taxable year ending after December 31, 1975, the taxpayer may elect to relinquish the entire carry-

back period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and once made for any taxable year, such election shall be irrevocable for that taxable year."

(2) **MUTUAL INSURANCE COMPANIES.—**

(A) **IN GENERAL.**—Section 825(d) is amended to read as follows: 26 USC 825.

"(d) **YEARS TO WHICH CARRIED.**—

"(1) **IN GENERAL.**—The unused loss for any taxable year shall be—

"(A) an unused loss carryback to each of the 3 taxable years preceding the loss year; and

"(B) an unused loss carryover to each of the 5 taxable years following the loss year.

In the case of an unused loss for a taxable year ending after December 31, 1975, such unused loss shall be an unused loss carryover to each of the 7 taxable years following the loss year.

"(2) **ELECTION FOR UNUSED LOSS CARRYBACKS.**—In the case of an unused loss for any taxable year ending after December 31, 1975, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the unused loss for which the election is to be in effect, and once made for any taxable year, such election shall be irrevocable for that taxable year."

(e) **AMENDMENT OF SECTION 382.**—Section 382 (relating to special limitations on net operating loss carryovers) is hereby amended to read as follows: 26 USC 382.

"SEC. 382. SPECIAL LIMITATIONS ON NET OPERATING LOSS CARRY-OVER.

"(a) CERTAIN ACQUISITIONS OF STOCK OF A CORPORATION.—

"(1) IN GENERAL.—If—

"(A) on the last day of a taxable year of a corporation,

"(B) any one or more of the persons described in paragraph (4)(B) own, directly or indirectly, a percentage of the total fair market value of the participating stock or of all the stock of the corporation which exceeds by more than 60 percentage points the percentage of such stock owned by such person or persons at—

"(i) the beginning of such taxable year, or

"(ii) the beginning of the first or second preceding taxable year, and

"(C) such increase in percentage points is attributable to—

"(i) a purchase by such person or persons of such stock, or of the stock of another corporation owning stock in such corporation, or of an interest in a partnership or trust owning stock in such corporation,

"(ii) an acquisition (by contribution, merger, or consolidation) of an interest in a partnership owning stock in such corporation, or an acquisition (by contribution, merger, or consolidation) by a partnership of such stock,

"(iii) an exchange to which section 351 (relating to transfer to corporation controlled by transferor) applies, or an acquisition by a corporation of such stock in an exchange in which section 351 applies to the transferor,

26 USC 303.

“(iv) a contribution to the capital of such corporation,
“(v) a decrease in the amount of such stock outstanding or in the amount of stock outstanding of another corporation owning stock in such corporation (except a decrease resulting from a redemption to pay death taxes to which section 303 applies),

“(vi) a liquidation of the interest of a partner in a partnership owning stock in such corporation, or

“(vii) any combination of the transactions described in clauses (i) through (vi),

then the net operating loss carryover, if any, from such taxable year and the net operating loss carryovers, if any, from prior taxable years to such taxable year and subsequent taxable years of such corporation shall be reduced by the percentage determined under paragraph (2),

“(2) REDUCTION OF NET OPERATING LOSS CARRYOVER.—The reduction applicable under paragraph (1) shall be the sum of the percentages determined by multiplying—

“(A) by three and one-half the increase in percentage points (including fractions thereof) in excess of 60 and up to and including 80, and

“(B) by one and one-half the increase in percentage points (including fractions thereof) in excess of 80.

The reduction under this paragraph shall be determined by reference to the increase in percentage points of the total fair market value of the participating stock or of all the stock, whichever increase is greater.

“(3) MINIMUM OWNERSHIP RULE.—Notwithstanding the provisions of paragraph (1), a net operating loss carryover from a taxable year shall not be reduced under this subsection if, at all times during the last half of such taxable year, any of the persons described in paragraph (4)(B) (determined on the last day of the taxable year referred to in paragraph (1)(A)) owned at least 40 percent of the total fair market value of the participating stock and of all the stock of the corporation. For purposes of the preceding sentence, persons owning stock of a corporation on the last day of its first taxable year shall be considered to have owned such stock at all times during the last half of such first taxable year.

“(4) OPERATING RULES.—For purposes of this subsection—

“(A) DEFINITION OF PURCHASE.—The term ‘purchase’ means an acquisition of stock the basis of which is determined by reference to its cost to the holder thereof.

“(B) DESCRIPTION OF PERSON OR PERSONS.—The person or persons referred to in paragraph (1)(B) shall be the 15 persons (or such lesser number as there are persons owning the stock on the last day of the taxable year) who own the greatest percentage of the total fair market value of all the stock on the last day of that year, except that if any other person owns the same percentage of such stock at such time as is owned by one of the 15 persons, that other person shall also be included. If any of the persons are so related that the stock owned by one is attributed to the other under the rules specified in subparagraph (C), such persons shall be considered as only one person solely for the purpose of selecting the 15 persons (more or less) who own the greatest percentage of the total fair market value of all the stock.

“(C) **CONSTRUCTIVE OWNERSHIP.**—Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that section 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50 percent limitation contained therein. 26 USC 318.

“(D) **SHORT TAXABLE YEARS.**—If one of the taxable years of the corporation referred to in paragraph (1)(B) is a short taxable year, then such paragraph and paragraph (6) shall be applied by substituting ‘first, second, or third’ for ‘first or second’ each time such phrase occurs.

“(5) **EXCEPTIONS.**—This subsection shall not apply to a purchase or other acquisition of stock (or of an interest in a partnership or trust owning stock in the corporation)—

“(A) from a person whose ownership of stock would be attributed to the holder by application of paragraph (4)(C) to the extent that such stock would be so attributed;

“(B) if (and to the extent) the basis thereof is determined under section 1014 or 1023 (relating to property acquired from a decedent), or section 1015(a) or (b) (relating to property acquired by gift or transfers in trust);

Post, p. 1872.

“(C) by a security holder or creditor in exchange for the relinquishment or extinguishment in whole or part of a claim against the corporation, unless the claim was acquired for the purpose of acquiring such stock;

“(D) by one or more persons who were full-time employees of the corporation at all times during the period of 36 months ending on the last day of the taxable year of the corporation (or at all times during the period of the corporation’s existence, if shorter);

“(E) by a trust described in section 401(a) which is exempt from tax under section 501(a) and which benefits exclusively the employees (or their beneficiaries) of the corporation, including a member of a controlled group of corporations (within the meaning of section 1563(a) determined without regard to section 1563(a)(4) and (e)(3)(C)) which includes such corporation;

“(F) by an employee stock ownership plan meeting the requirements of section 301(d) of the Tax Reduction Act of 1975; or

26 USC 46 note.

“(G) in a recapitalization described in section 368(a)(1)(E).

“(6) **SUCCESSIVE APPLICATIONS OF SUBSECTION.**—If—

“(A) a net operating loss carryover is reduced under this subsection at the end of a taxable year of a corporation, and

“(B) any person described in paragraph (4)(B) who owns stock of the corporation on the last day of such taxable year does not own, on the last day of the first or second succeeding taxable year of the corporation, a greater percentage of the total fair market value of the participating stock or of all the stock of the corporation than such person owned on the last day of such taxable year,

then, for purposes of applying this subsection as of the end of the first or second succeeding taxable year (as the case may be), stock owned by such person at the end of such succeeding taxable year shall be considered owned by such person at the beginning of the first or second preceding taxable year. Other rules relating

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to the manner and extent of successive applications of this section in the case of increases in ownership and transfers of stock by the persons described in paragraph (4) (B) shall be prescribed by regulations issued by the Secretary.

“(b) REORGANIZATIONS.—

26 USC 368.

“(1) IN GENERAL.—If one corporation acquires the stock or assets of another corporation in a reorganization described in section 368(a) (1) (A), (B), (C), (D) (but only if the requirements of section 354(b) (1) are met), or (F), and if—

“(A) the acquiring or acquired corporation has a net operating loss for the taxable year which includes the date of the acquisition, or a net operating loss carryover from a prior taxable year to such taxable year, and

“(B) the shareholders (immediately before the reorganization) of such corporation (the ‘loss corporation’), as the result of owning stock of the loss corporation, own (immediately after the reorganization) less than 40 percent of the total fair market value of the participating stock or of all the stock of the acquiring corporation,

then the net operating loss carryover (if any) of the loss corporation from the taxable year which includes the date of the acquisition, and the net operating loss carryovers (if any) of the loss corporation from prior taxable years to such taxable year and subsequent taxable years, shall be reduced by the percentage determined under paragraph (2).

“(2) REDUCTION OF NET OPERATING LOSS CARRYOVER.—

“(A) OWNERSHIP OF 20 PERCENT OR MORE.—If such shareholders own less than 40 percent, but not less than 20 percent, of the total fair market value of the participating stock or of all the stock of the acquiring corporation, the reduction applicable under paragraph (1) shall be the percentage equal to the number of percentage points (including fractions thereof) less than 40 percent, multiplied by three and one-half.

“(B) OWNERSHIP OF LESS THAN 20 PERCENT.—If such shareholders own less than 20 percent of the total fair market value of the participating stock or of all the stock of the acquiring corporation, the reduction applicable under paragraph (1) shall be the sum of—

“(i) the percentage that would be determined under subparagraph (A) if the shareholders owned 20 percent of such stock, plus

“(ii) the percentage equal to the number of percentage points (including fractions thereof) of such stock less than 20 percent, multiplied by one and one-half.

The reduction under this paragraph shall be determined by reference to the lesser of the percentage of the total fair market value of the participating stock or of all the stock of the acquiring corporation owned by such shareholders.

“(3) LOSSES OF CONTROLLED CORPORATIONS.—For purposes of this subsection—

“(A) HOLDING COMPANIES.—If, immediately before the reorganization, the acquiring or acquired corporation controls a corporation which has a net operating loss for the taxable year which includes the date of the acquisition, or a net operating loss carryover from a prior taxable year to such taxable year, the acquiring or acquired corporation, as the case

may be, shall be treated as the loss corporation (whether or not such corporation is a loss corporation). The reduction, if any, so determined under paragraph (2) shall be applied to the losses of such controlled corporation.

“(B) TRIANGULAR REORGANIZATIONS.—Except as otherwise provided in paragraph (5), if the shareholders of the loss corporation (immediately before the reorganization) own, as a result of the reorganization, stock in a corporation controlling the acquiring corporation, such shareholders shall be treated as owning (immediately after the reorganization) a percentage of the total fair market value of the participating stock and of all the stock of the acquiring corporation owned by the controlling corporation equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, of the controlling corporation owned by such shareholders.

“(4) SPECIAL RULES.—For purposes of applying paragraph (1)(B)—

“(A) CERTAIN RELATED TRANSACTIONS.—If, immediately before the reorganization—

“(i) one or more shareholders of the loss corporation own stock of such corporation which such shareholder acquired during the 36-month period ending on the date of the acquisition in a transaction described in paragraph (1) or in subsection (a)(1)(C) (unless excepted by subsection (a)(5)), and

“(ii) such shareholders own more than 50 percent of the total fair market value of the stock of another corporation a party to the reorganization, or any such shareholder is a corporation controlled by another corporation a party to the reorganization.

then such shareholders shall not be treated as shareholders of the loss corporation with respect to such stock.

“(B) CERTAIN PRIOR OWNERSHIP OF LOSS CORPORATION.—If, immediately before the reorganization, the acquiring or acquired corporation owns stock of the loss corporation, then paragraph (1)(B) shall be applied by treating the shareholders of the loss corporation as owning an additional amount of the total fair market value of the participating stock and of all the stock of the acquiring corporation, as a result of owning stock in the loss corporation, equal to the total fair market value of the participating stock and of all the stock, respectively, of the loss corporation owned (immediately before the reorganization) by the acquiring or acquired corporation. This subparagraph shall not apply to stock of the loss corporation owned by the acquiring or acquired corporation if such stock was acquired by such corporation within the 36-month period ending on the date of the reorganization in a transaction described in subsection (a)(1)(C) (unless excepted by subsection (a)(5)); or to a reorganization described in section 368(a)(1)(B) or (C) to the extent the acquired corporation does not distribute the stock received by it to its own shareholders.

26 USC 368.

“(C) CERTAIN ASSET ACQUISITIONS.—If a loss corporation receives stock of the acquiring corporation in a reorganization described in section 368(a)(1)(C) and does not distribute such stock to its shareholders, paragraph (1)(B) shall be

applied by treating the shareholders of the loss corporation as owning (immediately after the reorganization) such undistributed stock in proportion to the fair market value of the stock which such shareholders own in the loss corporation.

26 USC 368.

“(5) CERTAIN STOCK-FOR-STOCK REORGANIZATIONS.—In the case of a reorganization described in section 368(a)(1)(B) in which the acquired corporation is a loss corporation—

“(A) STOCK WHICH IS EXCHANGED.—Paragraphs (1)(B) and (2) shall be applied by reference to the ownership of stock of the loss corporation (rather than the acquiring corporation) immediately after the reorganization. Shareholders of the loss corporation who exchange stock of the loss corporation shall be treated as owning (immediately after the reorganization) a percentage of the total fair market value of the participating stock and of all the stock of the loss corporation acquired in the exchange by the acquiring corporation which is equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, of the acquiring corporation owned (immediately after the reorganization) by such shareholders.

“(B) STOCK WHICH IS NOT EXCHANGED.—Stock of the loss corporation owned by shareholders immediately before the reorganization which was not exchanged in the reorganization shall be taken into account in applying paragraph (1)(B). For purposes of the preceding sentence, the acquiring corporation (or a corporation controlled by the acquiring corporation) shall not be treated as a shareholder of the loss corporation with respect to stock of the loss corporation acquired in a transaction described in paragraph (1), or in subsection (a)(1)(C) (unless excepted by subsection (a)(5)), during the 36-month period ending on the date of the exchange.

“(C) TRIANGULAR EXCHANGES.—For purposes of applying the rules in this paragraph, if the shareholders of the loss corporation receive stock of a corporation controlling the acquiring corporation, such shareholders shall be treated as owning a percentage of the participating stock and of all the stock of the acquiring corporation owned by the controlling corporation equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, which such shareholders own of the controlling corporation immediately after the reorganization.

“(6) EXCEPTIONS.—The limitations in this subsection shall not apply—

“(A) if the same persons own substantially all the stock of the acquiring corporation and of the other corporation in substantially the same proportions; or

“(B) to a net operating loss carryover from a taxable year if the acquiring or acquired corporation owned at least 40 percent of the total fair market value of the participating stock and of all the stock of the loss corporation at all times during the last half of such taxable year.

For purposes of subparagraph (A), if the acquiring or acquired corporation is controlled by another corporation, the shareholders of the controlling corporation shall be considered as also owning the stock owned by the controlling corporation in that proportion which the total fair market value of the stock which

each shareholder owns in the controlling corporation bears to the total fair market value of all the stock in the controlling corporation.

“(c) **RULES RELATING TO STOCK.**—For purposes of this section—
“(1) The term ‘stock’ means all shares of stock, except stock which—

“Stock.”

“(A) is not entitled to vote,

“(B) is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent,

“(C) has redemption and liquidation rights which do not exceed the paid-in capital or par value represented by such stock (except for a reasonable redemption premium in excess of such paid-in capital or par value), and

“(D) is not convertible into another class of stock.

“(2) The term ‘participating stock’ means stock (including common stock) which represents an interest in the earnings and assets of the issuing corporation which is not limited to a stated amount of money or property or percentage of paid-in capital or par value, or by any similar formula.

“Participating stock.”

“(3) The Secretary shall prescribe regulations under which—

Regulations.

“(A) stock or convertible securities shall be treated as stock or participating stock, or

“(B) stock (however denoted) shall not be treated as stock or participating stock,

by reason of conversion and call rights, rights in earnings and assets, priorities and preferences as to distributions of earnings or assets, and similar factors.”

(f) **CONFORMING AMENDMENTS.**—

(1) **AMENDMENT OF SECTION 368.**—Section 368(c) (relating to the definition of control) is amended by striking out “and this part,” and inserting in lieu thereof “this part, and part V.” 26 USC 368.

(2) **AMENDMENT OF SECTION 383.**—Section 383 (relating to special limitations on certain carryovers) is amended to read as follows: 26 USC 383.

“SEC. 383. SPECIAL LIMITATIONS ON UNUSED INVESTMENT CREDITS, WORK INCENTIVE PROGRAM CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.

“In the case of a change of ownership of a corporation in the manner described in section 382 (a) or (b), the limitations provided in section 382 in such cases with respect to net operating losses shall apply in the same manner, as provided under regulations prescribed by the Secretary, with respect to any unused investment credit of the corporation under section 46(b), to any unused work incentive program credit of the corporation under section 50A(b), to any excess foreign taxes of the corporation under section 904(d), and to any net capital loss of the corporation under section 1212.”

Ante, p. 1599

Ante, p. 1582

Post, p. 1620.

(g) **EFFECTIVE DATE.**—

(1) The amendments made by subsections (a), (b), (c), and (d) shall apply to losses incurred in taxable years ending after December 31, 1975. 26 USC 172 note.

(2) For purposes of applying sections 382(a) and 383 (as it relates to section 382(a)) of the Internal Revenue Code of 1954, as amended by subsections (e) and (f), the amendments made by subsections (e) and (f) shall take effect for taxable years beginning after June 30, 1978, except that the beginning of the taxable years specified in clause (ii) of section 382(a) (1) (B) of 26 USC 382 note.

26 USC 382
note.

such Code, as so amended, shall be considered to be the later of:

(A) the beginning of such taxable years, or

(B) January 1, 1978.

Ante, p. 1599.

(3) Sections 382(b) and 383 (as it relates to section 382(b)) of the Internal Revenue Code of 1954, as amended by subsections (e) and (f), shall apply (and such sections as in effect prior to such amendment shall not apply) to reorganizations pursuant to a plan of reorganization adopted by one or more of the parties thereto on or after January 1, 1978. For purposes of the preceding sentence, a corporation shall be considered to have adopted a plan of reorganization on the date on which a resolution of the board of directors is passed adopting the plan or recommending its adoption to the shareholders, or on the date on which the shareholders approve the plan of reorganization, whichever is earlier.

46 USC 1177-1.

SEC. 807. SMALL FISHING VESSEL CONSTRUCTION RESERVES.

In addition to any other vessel which may be deemed an "eligible vessel" and a "qualified vessel" under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), a commercial fishing vessel under five net tons but not under two net tons—

(1) which is constructed in the United States and, if reconstructed, is reconstructed in the United States;

(2) which is owned by a citizen of the United States;

(3) which has a home port in the United States; and

(4) which is operated in the commercial fisheries of the United States,

shall be considered to be an "eligible vessel" and a "qualified vessel" for the purposes of such section 607.

TITLE IX—SMALL BUSINESS PROVISIONS

SEC. 901. EXTENSION OF CERTAIN CORPORATE INCOME TAX REDUCTIONS.

26 USC 11.

(a) IN GENERAL.—Subsections (a), (b), (c), and (d) of section 11 (relating to tax imposed on corporations) are amended to read as follows:

"(a) CORPORATIONS IN GENERAL.—A tax is hereby imposed for each taxable year on the taxable income of every corporation. The tax shall consist of a normal tax computed under subsection (b) and a surtax computed under subsection (c).

"(b) NORMAL TAX.—The normal tax is equal to—

"(1) in the case of a taxable year ending after December 31, 1977, 22 percent of the taxable income, and

"(2) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978, the sum of—

"(A) 20 percent of so much of the taxable income as does not exceed \$25,000, plus

"(B) 22 percent of so much of the taxable income as exceeds \$25,000.

"(c) SURTAX.—The surtax is 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(d) SURTAX EXEMPTION.—For purposes of this subtitle, the surtax exemption for any taxable year is—

"(1) \$25,000 in the case of a taxable year ending after December 31, 1977, or

"(2) \$50,000 in the case of a taxable year ending after December 31, 1974, and before January 1, 1978,

cept that, with respect to a corporation to which section 1561 (relating to certain multiple tax benefits in the case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section."

(b) **MUTUAL INSURANCE COMPANIES.**—

(1) **IN GENERAL.**—Section 821(a)(1) (relating to mutual insurance companies) is amended to read as follows: 26 USC 821.

"(1) **NORMAL TAX.**—A normal tax equal to—

"(A) in the case of a taxable year ending after December 31, 1977, 22 percent of the mutual insurance company taxable income, or 44 percent of the amount by which such taxable income exceeds \$6,000, whichever is lesser, or

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978—

"(i) 20 percent of so much of the mutual insurance company taxable income as does not exceed \$25,000, plus

"(ii) 22 percent of so much of the mutual insurance company taxable income as exceeds \$25,000,

or 44 percent of the amount by which such taxable income exceeds \$6,000, whichever is lesser; plus".

(2) **SMALL COMPANIES.**—Section 821(c)(1)(A) (relating to alternative tax for certain small companies) is amended to read as follows:

"(A) **NORMAL TAX.**—A normal tax equal to—

"(i) in the case of a taxable year ending after December 31, 1977, 22 percent of the taxable investment income, or 44 percent of the amount by which such taxable income exceeds \$3,000, whichever is lesser, or

"(ii) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978, 20 percent of so much of the taxable investment income as does not exceed \$25,000, plus 22 percent of so much of the taxable investment income as exceeds \$25,000, or 44 percent of the amount by which such taxable income exceeds \$3,000, whichever is lesser; plus".

(c) **CONFORMING AMENDMENTS.**—

(1) Section 1561(a) (relating to certain multiple tax benefits in the case of certain controlled corporations) is amended by adding at the end thereof the following new sentence: "In applying section 11(b)(2), the first \$25,000 of taxable income and the second \$25,000 of taxable income shall each be allocated among the component members of a controlled group of corporations in the same manner as the surtax exemption is allocated." 26 USC 1561.

(2) Subsection (f) of section 21 (relating to change in surtax exemption treated as a change in a rate of tax) is amended by striking out "Tax Reduction Act of 1975" and all that follows and inserting in lieu thereof the following: "Tax Reduction Act of 1975" 26 USC 21.

in the surtax exemption and any change under section 11(d) of the surtax exemption shall be treated as a change in a rate of tax." 26 USC 1 note.

(3) Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by striking out subsection (h). 26 USC 6154.

(d) **EFFECTIVE DATES.**—The amendment made by subsection (a) shall take effect on December 23, 1975. The amendments made by subsection (b) shall apply to taxable years ending after December 31, 26 USC 11 note.

1974. The amendments made by subsection (c) shall apply to taxable years ending after December 31, 1975.

SEC. 902. CHANGES IN SUBCHAPTER S RULES.

(a) NUMBER OF SHAREHOLDERS.—

26 USC 1371.

(1) **IN GENERAL.**—Subsection (a)(1) of section 1371 (relating to the definition of small business corporation) is amended to read as follows:

“(1) have (except as provided in subsection (e)) more than 10 shareholders;”.

(2) **SPECIAL SHAREHOLDER RULES.**—Section 1371 is amended by adding at the end thereof the following new subsection:

“(e) SPECIAL SHAREHOLDER RULES.—

“(1) A small business corporation which has been an electing small business corporation for a period of five consecutive taxable years may not have more than 15 shareholders.

“(2) If, during the 5-year period set forth in paragraph (1), the number of shareholders of an electing small business corporation increases to an amount in excess of 10 (but not in excess of 15) solely by reason of additional shareholders who acquired their stock through inheritance, the corporation may have a number of additional shareholders equal to the number by which the inheriting shareholders cause the total number of shareholders of such corporation to exceed 10.”

26 USC 1371
note.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(b) DISTRIBUTIONS BY SUBCHAPTER S CORPORATIONS.—

26 USC 1377.

(1) **IN GENERAL.**—Section 1377 (relating to special rules applicable to earnings and profits of electing small business corporations) is amended by adding at the end thereof the following new subsection:

“(d) **DISTRIBUTIONS OF UNDISTRIBUTED TAXABLE INCOME PREVIOUSLY TAXED TO SHAREHOLDERS.**—For purposes of determining whether a distribution by an electing small business corporation constitutes a distribution of such corporation’s undistributed taxable income previously taxed to shareholders (as provided for in section 1375(d)), the earnings and profits of such corporation for the taxable year in which the distribution is made shall be computed without regard to section 312(m). Such computation shall be made without regard to section 312(m) only for such purposes.”

26 USC 1377
note.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1975

(c) ADDITIONAL CHANGES IN SUBCHAPTER S RULES.—

26 USC 1371.

(1) **ESTATE OF DECEASED SPOUSE NOT TO BE TREATED AS SHAREHOLDER.**—Subsection (c) of section 1371 (relating to stock owned by husband and wife) is amended to read as follows:

“(c) **STOCK OWNED BY HUSBAND AND WIFE.**—For purposes of subsection (a)(1) stock which—

“(1) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State,

“(2) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

“(3) was, on the date of death of a spouse, stock described in paragraph (1) or (2), and is, by reason of such death, held by the estate of the deceased spouse and the surviving spouse, or by the estates of both spouses (by reason of their deaths on the same

date), in the same proportion as held by the spouses before such death, or

“(4) was, on the date of the death of a surviving spouse, stock described in paragraph (3), and is, by reason of such death, held by the estates of both spouses in the same proportion as held by the spouses before their deaths,

shall be treated as owned by one shareholder.”

(2) BROADENING CLASSES OF PERMISSIBLE SHAREHOLDERS TO INCLUDE CERTAIN TRUSTS.—

(A) Section 1371 (relating to definitions for purposes of subchapter S) is amended by adding at the end thereof the following new subsection: 26 USC 1371.

“(f) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (a), the following trusts may be shareholders:

“(1) A trust all of which is treated as owned by the grantor under subpart E of part I of subchapter J of this chapter. 26 USC 671.

“(2) A trust created primarily to exercise the voting power of stock transferred to it.

“(3) Any trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day period beginning on the day on which such stock is transferred to it.

In the case of a trust described in paragraph (2), each beneficiary of the trust shall, for purposes of subsection (a)(1), be treated as a shareholder.”

(B) Paragraph (2) of section 1371(a) is amended by striking out “(other than an estate)” and inserting in lieu thereof “(other than an estate and other than a trust described in subsection (f))”.

(3) NEW SHAREHOLDERS MUST AFFIRMATIVELY ELECT TO TERMINATE ELECTION.—Paragraph (1) of section 1372(e) (relating to termination of election) is amended to read as follows: 26 USC 1372.

“(1) NEW SHAREHOLDERS.—

“(A) An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder in such corporation—

“(i) on the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

“(ii) on the day on which the election is made, if such election is made after such first day,

becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary shall by regulations prescribe) to consent to such election on or before the 60th day after the day on which he acquires the stock.

“(B) If the person acquiring the stock is the estate of a decedent, the period under subparagraph (A) for affirmatively refusing to consent to the election shall expire on the 60th day after whichever of the following is the earlier:

“(i) The day on which the executor or administrator of the estate qualifies; or

“(ii) The last day of the taxable year of the corporation in which the decedent died.

“(C) Any termination of an election under subparagraph (A) by reason of the affirmative refusal of any person to consent to such election shall be effective for the taxable year of the corporation in which such person becomes a shareholder

in the corporation and for all succeeding taxable years of the corporation.”.

26 USC 1371
note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

TITLE X—CHANGES IN THE TREATMENT OF FOREIGN INCOME

PART I—FOREIGN TAX PROVISIONS AFFECTING INDIVIDUALS ABROAD

SEC. 1011. INCOME EARNED ABROAD BY UNITED STATES CITIZENS LIVING OR RESIDING ABROAD.

26 USC 911.

(a) REDUCTION OF LIMITATIONS ON AMOUNT EXCLUDABLE.—Paragraph (1) of section 911(c) relating to limitations on amount of exclusion) is amended to read as follows:

“(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of \$15,000.

“(B) EMPLOYEES OF CHARITABLE ORGANIZATIONS.—If any individual performs qualified charitable services during any taxable year, the amount of the earned income attributable to such services excluded from the gross income of the individual under subsection (a) for the taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of \$20,000.

“(C) SPECIAL RULE.—If any individual performs qualified charitable services and other services during any taxable year, the amount of the earned income attributable to such other services excluded from the gross income of the individual under subsection (a) for the taxable year shall not (after the application of subparagraph (A) with respect to such earned income) exceed \$15,000 reduced by the amount of the earned income attributable to qualified charitable services excluded from gross income under subsection (a) for the taxable year.

“(D) QUALIFIED CHARITABLE SERVICES.—For purposes of this subsection, the term ‘qualified charitable services’ means services performed by an employee for an employer created or organized in the United States, or under the law of the United States, any State, or the District of Columbia, which meets the requirements of section 501(c)(3).”

(b) ADDITIONAL LIMITATIONS ON EXCLUSION.—

(1) DISALLOWANCE OF FOREIGN TAX CREDIT WITH RESPECT TO EXCLUDED AMOUNTS.—The last sentence of subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

“An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deductions or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection.”

(2) DISALLOWANCE OF EXCLUSION FOR INCOME RECEIVED OTHER THAN IN COUNTRY WHERE EARNED.—Section 911(c) (relating to special rules for earned income from sources without the United States) is amended by adding at the end thereof the following new paragraph: 26 USC 911.

“(8) REQUIREMENT AS TO PLACE OF RECEIPT.—No amount received by an individual during the taxable year which constitutes earned income (entitled to the exclusion under subsection (a)) attributable to services performed in a foreign country or countries shall be excluded under subsection (a) if such amount is received by such individual outside of the foreign country or countries where such services were performed and if one of the purposes is the avoidance of any tax imposed by such foreign country or countries on such amount.”

(3) INCLUSION OF EARNED INCOME IN COMPUTATION OF RATE OF TAX.—Section 911 (relating to earned income from sources without the United States) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

“(d) AMOUNT EXCLUDED UNDER SUBSECTION (a) INCLUDED IN COMPUTATION OF TAX.—

“(1) COMPUTATION OF TAX.—If for any taxable year an individual has earned income which is excluded from gross income under subsection (a), the tax imposed by section 1 or section 1201 shall be the excess of—

Post, p. 1786.

“(A) the tax imposed by section 1 or section 1201 (whichever is applicable) on the amount of net taxable income, over

“(B) the tax imposed by section 1 or section 1201 (whichever is applicable) on the amount of net excluded earned income.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘net taxable income’ means an amount equal to the sum of the amount of taxable income for the taxable year plus the amount of net excluded earned income of such individual for such taxable year; and

“(B) the term ‘net excluded earned income’ means the excess of the amount of earned income excluded under subsection (a) for the taxable year over the amount of the deductions disallowed with respect to such excluded earned income for such taxable year under subsection (a).

“(e) SECTION NOT TO APPLY.—

“(1) IN GENERAL.—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply.

“(2) EFFECT OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and to all subsequent taxable years. Such election may not be revoked except with the consent of the Secretary.”

(c) ALLOWANCE OF FOREIGN TAX CREDITS TO INDIVIDUALS TAKING STANDARD DEDUCTION.—Section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended by striking out “sections 32, 33, and” and inserting in lieu thereof “sections 32 and”. 26 USC 36.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975. 26 USC 911 note.

SEC. 1012. INCOME TAX TREATMENT OF NONRESIDENT ALIEN INDIVIDUALS WHO ARE MARRIED TO CITIZENS OR RESIDENTS OF THE UNITED STATES.

(a) ELECTION TO BE TREATED AS RESIDENTS OF THE UNITED STATES.—

26 USC 6013.

(1) IN GENERAL.—Section 6013 (relating to joint returns of income tax by husband and wife) is amended by adding at the end thereof the following new subsections:

“(g) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

26 USC 1.

“(1) IN GENERAL.—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year.

“(2) INDIVIDUALS WITH RESPECT TO WHOM THIS SUBSECTION IS IN EFFECT.—This subsection shall be in effect with respect to any individual who, at the time an election was made under this subsection, was a nonresident alien individual married to a citizen or resident of the United States, if both of them made such election to have the benefits of this subsection apply to them.

“(3) DURATION OF ELECTION.—An election under this subsection shall apply to the taxable year for which made and to all subsequent taxable years until terminated under paragraph (4) or (5); except that any such election shall not apply for any taxable year if neither spouse is a citizen or resident of the United States at any time during such year.

“(4) TERMINATION OF ELECTION.—An election under this subsection shall terminate at the earliest of the following times:

“(A) REVOCATION BY TAXPAYERS.—If either taxpayer revokes the election, as of the first taxable year for which the last day prescribed by law for filing the return of tax under chapter 1 has not yet occurred.

“(B) DEATH.—In the case of the death of either spouse, as of the beginning of the first taxable year of the spouse who survives following the taxable year in which such death occurred; except that if the spouse who survives is a citizen or resident of the United States who is a surviving spouse entitled to the benefits of section 2, the time provided by this subparagraph shall be as of the close of the last taxable year for which such individual is entitled to the benefits of section 2.

“(C) LEGAL SEPARATION.—In the case of the legal separation of the couple under a decree of divorce or of separate maintenance, as of the beginning of the taxable year in which such legal separation occurs.

“(D) TERMINATION BY SECRETARY.—At the time provided in paragraph (5).

“(5) TERMINATION BY SECRETARY.—The Secretary may terminate any election under this subsection for any taxable year if he determines that either spouse has failed—

“(A) to keep such books and records,

“(B) to grant such access to such books and records, or

“(C) to supply such other information,

as may be reasonably necessary to ascertain the amount of liability for taxes under chapter 1 of either spouse for such taxable year.

“(6) **ONLY ONE ELECTION.**—If any election under this subsection for any two individuals is terminated under paragraph (4) or (5) for any taxable year, such two individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.

“(h) **JOINT RETURN, ETC., FOR YEAR IN WHICH NONRESIDENT ALIEN BECOMES RESIDENT OF UNITED STATES.**—

“(1) **IN GENERAL.**—If—

“(A) any individual is a nonresident alien individual at the beginning of any taxable year but is a resident of the United States at the close of such taxable year,

“(B) at the close of such taxable year, such individual is married to a citizen or resident of the United States, and

“(C) both individuals elect the benefits of this subsection at the time and in the manner prescribed by the Secretary by regulation,

then the individual referred to in subparagraph (A) shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year. 26 USC 1.

“(2) **ONLY ONE ELECTION.**—If any election under this subsection applies for any 2 individuals for any taxable year, such 2 individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.”

(2) **CLERICAL AMENDMENT.**—Section 871(g) (relating to cross references) is amended by adding at the end thereof the following new paragraph: 26 USC 871.

“(7) For election to treat married nonresident alien individual as resident of United States in certain cases, see subsections (g) and (h) of section 6013.”

(b) **TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF A RESIDENT OR CITIZEN OF THE UNITED STATES WHO IS MARRIED TO A NONRESIDENT ALIEN INDIVIDUAL.**—

(1) **IN GENERAL.**—Subpart A of part II of subchapter N of chapter 1 (relating to nonresident alien individuals) is amended by adding at the end thereof the following new section:

“**SEC. 879. TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF A RESIDENT OR CITIZEN OF THE UNITED STATES WHO IS MARRIED TO A NONRESIDENT ALIEN INDIVIDUAL.** 26 USC 879.

“(a) **GENERAL RULE.**—In the case of a citizen or resident of the United States who is married to a nonresident alien individual and who has community income for the taxable year, such community income shall be treated as follows:

“(1) Earned income (within the meaning of section 911(b)), other than trade or business income and a partner's distributive share of partnership income, shall be treated as the income of the spouse who rendered the personal services,

“(2) Trade or business income, and a partner's distributive share of partnership income, shall be treated as provided in section 1402(a)(5),

“(3) Community income not described in paragraph (1) or (2) which is derived from the separate property (as determined under the applicable community property law) of one spouse shall be treated as the income of such spouse, and

“(4) All other such community income shall be treated as provided in the applicable community property law.

Ante, p. 1612.

“(b) EXCEPTION WHERE ELECTION UNDER SECTION 6013(g) IS IN EFFECT.—Subsection (a) shall not apply for any taxable year for which an election under subsection (g) or (h) of section 6013 (relating to election to treat nonresident alien individual as resident of the United States) is in effect.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) COMMUNITY INCOME.—The term ‘community income’ means income which, under applicable community property laws, is treated as community income.

“(2) COMMUNITY PROPERTY LAWS.—The term ‘community property laws’ means the community property laws of a State, a foreign country, or a possession of the United States.

“(3) DETERMINATION OF MARITAL STATUS.—The determination of marital status shall be made under section 143(a).”

26 USC 981.

(2) REPEAL OF SECTION 981.—Subpart II of part III of subchapter N of chapter 1 (relating to election as to treatment of income subject to foreign community property laws) is hereby repealed.

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 879. Tax treatment of certain community income in the case of a resident or citizen of the United States who is married to a nonresident alien individual.”

(B) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart G.

26 USC 6073.

(c) DUE DATE FOR FILING ESTIMATED TAX RETURNS IN THE CASE OF CERTAIN NONRESIDENT ALIENS.—Subsection (a) of section 6073 (relating to time for filing declarations of estimated tax by individuals) is amended by adding at the end thereof the following sentence:

“In the case of a nonresident alien described in section 6072(c), the requirements of section 6015 shall be deemed to be first met no earlier than after April 1 and before June 2 of the taxable year.”

26 USC 6013
note.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to taxable years ending on or after December 31, 1975. The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1976.

“SEC. 1013. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES TO BE TAXED CURRENTLY TO GRANTOR.

(a) TAXATION OF INCOME TO GRANTOR OF TRUST.—Subpart E of part I of subchapter J of chapter 1 (relating to grantors and others treated as substantial owners) is amended by adding at the end thereof the following new section:

26 USC 679.

“SEC. 679. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

“(a) TRANSFEROR TREATED AS OWNER.—

“(1) IN GENERAL.—A United States person who directly or indirectly transfers property to a foreign trust (other than a trust described in section 404(a)(4)) shall be treated as the owner for his taxable year of the portion of such trust attributable to such property if for such year there is a United States beneficiary of any portion of such trust.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply—

“(A) TRANSFERS BY REASON OF DEATH.—To any transfer by reason of the death of the transferor.

“(B) TRANSFERS WHERE GAIN IS RECOGNIZED TO TRANSFEROR.—To any sale or exchange of the property at its fair market value in a transaction in which all of the gain to the transferor is realized at the time of the transfer and is recognized either at such time or is returned as provided in section 453.

“(b) TRUSTS ACQUIRING UNITED STATES BENEFICIARIES.—If—

“(1) subsection (a) applies to a trust for the transferor's taxable year, and

“(2) subsection (a) would have applied to the trust for his immediately preceding taxable year but for the fact that for such preceding taxable year there was no United States beneficiary for any portion of the trust, then, for purposes of this subtitle, the transferor shall be treated as having income for the taxable year (in addition to his other income for such year) equal to the undistributed net income (at the close of such immediately preceding taxable year) attributable to the portion of the trust referred to in subsection (a).

“(c) TRUSTS TREATED AS HAVING A UNITED STATES BENEFICIARY.—

“(1) IN GENERAL.—For purposes of this section, a trust shall be treated as having a United States beneficiary for the taxable year unless—

“(A) under the terms of the trust, no part of the income or corpus of the trust may be paid or accumulated during the taxable year to or for the benefit of a United States person, and

“(B) if the trust were terminated at any time during the taxable year, no part of the income or corpus of such trust could be paid to or for the benefit of a United States person.

“(2) ATTRIBUTION OF OWNERSHIP.—For purposes of paragraph (1), an amount shall be treated as paid or accumulated to or for the benefit of a United States person if such amount is paid to or accumulated for a foreign corporation, foreign partnership, or foreign trust or estate, and—

“(A) in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)),

“(B) in the case of a foreign partnership, a United States person is a partner of such partnership, or

“(C) in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1)).”.

(b) GRANTOR TO BE TREATED AS OWNER.—Subsection (b) of section 678 (relating to persons other than grantors treated as substantial owners) is amended by striking out everything after “modified,” and inserting in lieu thereof “if the grantor of the trust or a transferor (to whom section 679 applies) is otherwise treated as the owner under the provisions of this subpart other than this section.”. 26 USC 678.

(c) TREATMENT OF CAPITAL GAINS AND LOSSES OF CERTAIN FOREIGN TRUSTS.—

(1) FOREIGN TRUSTS CREATED BY UNITED STATES PERSONS TREATED LIKE OTHER FOREIGN TRUSTS.—Subparagraph (C) of section 643 26 USC 643.

(a) (6) (relating to distributable net income in case of foreign trusts) is amended by striking out "foreign trust created by a United States person" and inserting in lieu thereof "foreign trust".

26 USC 643.

(2) TRANSITIONAL RULE FOR FOREIGN TRUSTS.—Section 643(a) (6) is amended by adding at the end thereof the following new subparagraph:

"(D) Effective for distributions made in taxable years beginning after December 31, 1975, the undistributed net income of each foreign trust for each taxable year beginning on or before December 31, 1975, remaining undistributed at the close of the last taxable year beginning on or before December 31, 1975, shall be redetermined by taking into account the deduction allowed by section 1202."

(d) RETURNS FOR FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—

26 USC 6048.

(1) Section 6048 (relating to returns as to creation of or transfers to certain foreign trusts) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ANNUAL RETURNS FOR FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—Each taxpayer subject to tax under section 679 (relating to foreign trusts having one or more United States beneficiaries) for his taxable year with respect to any trust shall make a return with respect to such trust for such year at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe."

26 USC 6677.

(2) Section 6677(a) (relating to failure to file information returns with respect to certain foreign trusts) is amended by striking out "to a trust" and inserting in lieu thereof "to a trust (or, in the case of a failure with respect to section 6048(c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)".

(e) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart E of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 679. Foreign trusts having one or more United States beneficiaries."

26 USC 643.

(2) Subsection (d) of section 643 is hereby repealed.

26 USC 6048.

(3) Subsection (d) of section 6048 (as redesignated by subsection (d)) is amended to read as follows:

"(d) CROSS REFERENCE.—

"For provisions relating to penalties for violation of this section, see sections 6677 and 7203."

(4) The heading of section 6048 is amended to read as follows:

"SEC. 6048. RETURNS AS TO CERTAIN FOREIGN TRUSTS."

26 USC 6041.

(5) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6048 and inserting in lieu thereof the following:

"Sec. 6048. Returns as to certain foreign trusts."

(f) EFFECTIVE DATES.—

26 USC 679
note.

(1) IN GENERAL.—The amendments made by this section (other than subsection (c)) shall apply to taxable years ending after December 31, 1975, but only in the case of—

(A) foreign trusts created after May 21, 1974, and

(B) transfers of property to foreign trusts after May 21, 1974.

(2) CHANGES IN CAPITAL GAIN RULES FOR FOREIGN TRUSTS.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1975.

26 USC 643
note.

SEC. 1014. INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS FROM FOREIGN TRUSTS.

(a) TAX TO INCLUDE SPECIAL INTEREST CHARGE.—Section 667(a) (as amended by section 701 of this Act) is amended by striking out “and” at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof “, and ”, and by adding at the end thereof the following new paragraph:

Ante, p. 1575.
Infra.

“(3) in the case of a foreign trust, the interest charge determined as provided in section 668.”

Infra.

(b) COMPUTATION OF SPECIAL INTEREST CHARGE.—Subpart D of part I of subchapter J of chapter 1 (relating to treatment of excess distributions by trusts) is amended by adding at the end thereof the following new section:

“SEC. 668. INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS FROM FOREIGN TRUSTS.

26 USC 668.

“(a) GENERAL RULE.—For purposes of the tax determined under section 667(a), the interest charge is an amount equal to 6 percent of the partial tax computed under section 667(b) multiplied by a fraction—

“(1) the numerator of which is the sum of the number of taxable years between each taxable year to which the distribution is allocated under section 666(a) and the taxable year of the distribution (counting in each case the taxable year to which the distribution is allocated but not counting the taxable year of the distribution), and

“(2) the denominator of which is the number of taxable years to which the distribution is allocated under section 666(a).”

“(b) LIMITATION.—The total amount of the interest charge shall not, when added to the total partial tax computed under section 667(b), exceed the amount of the accumulation distribution (other than the amount of tax deemed distributed by section 666(b) or (c)) in respect of which such partial tax was determined.

“(c) SPECIAL RULES.—

“(1) INTEREST CHARGE NOT DEDUCTIBLE.—The interest charge determined under this section shall not be allowed as a deduction for purposes of any tax imposed by this title.

“(2) TRANSITIONAL RULE.—For purposes of this section, undistributed net income existing in a trust as of January 1, 1977, shall be treated as allocated under section 666(a) to the first taxable year beginning after December 31, 1976.”

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by adding at the end thereof of the following new item:

Sec. 668. Interest charge on accumulation distributions from foreign trusts.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

26 USC 668
note.

SEC. 1015. EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.

(a) AMENDMENT OF SECTION 1491.—Section 1491 (relating to imposition of tax) is amended to read as follows:

26 USC 1491.

26 USC 1491.

"SEC. 1491. IMPOSITION OF TAX.

"There is hereby imposed on the transfer of property by a citizen or resident of the United States, or by a domestic corporation or partnership, or by a trust which is not a foreign trust, to a foreign corporation as paid-in surplus or as a contribution to capital, or to a foreign trust, or to a foreign partnership, an excise tax equal to 35 percent of the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the sum of—

"(A) the adjusted basis (for determining gain) of such property in the hands of the transferor, plus

"(B) the amount of the gain recognized to the transferor at the time of the transfer."

26 USC 1492.

(b) **AMENDMENTS OF SECTION 1492.**—Section 1492 (relating to non-taxable transfers) is amended—

(1) by striking out in paragraph (3) "section 367(d) applies." and inserting in lieu thereof "section 367 applies; or" and

(2) by adding at the end thereof the following new paragraph:

"(4) To a transfer for which an election has been made under section 1057."

Infra.

(c) **ELECTION TO TREAT AS TAXABLE EXCHANGE.**—Part IV of subchapter O of chapter 1 (relating to special rules for determining gain or loss on disposition of property) is amended by redesignating section 1057 as section 1058 and by inserting after section 1056 the following new section:

Ante, p. 1545.

26 USC 1057.

"SEC. 1057. ELECTION TO TREAT TRANSFER TO FOREIGN TRUST, ETC., AS TAXABLE EXCHANGE.*Supra.*

"In lieu of payment of the tax imposed by section 1491, the taxpayer may elect (for purposes of this subtitle), at such time and in such manner as the Secretary may prescribe, to treat a transfer described in section 1491 as a sale or exchange of property for an amount equal in value to the fair market value of the property transferred and to recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for determining gain) of such property in the hands of the transferor."

(c) **CLERICAL AMENDMENT.**—The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the last item thereof and inserting in lieu thereof:

"Sec. 1057. Election to treat transfer to foreign trust, etc., as taxable exchange.

"Sec. 1058. Cross references."

26 USC 1491
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to transfers of property after October 2, 1975.

PART II—AMENDMENTS AFFECTING TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS

SEC. 1021. AMENDMENT OF PROVISION RELATING TO INVESTMENT IN UNITED STATES PROPERTY BY CONTROLLED FOREIGN CORPORATIONS.

26 USC 956.

(a) **EXCEPTIONS TO DEFINITION OF UNITED STATES PROPERTY.**—Section 956(b)(2) (relating to exceptions to definition of United States property) is amended by striking out "and" at the end of sub-

paragraph (E), by redesignating subparagraph (F) as subparagraph (H), and by inserting after subparagraph (E) the following new subparagraphs:

“(F) the stock or obligations of a domestic corporation which is neither a United States shareholder (as defined in section 951(b)) of the controlled foreign corporation, nor a domestic corporation, 25 percent or more of the total combined voting power of which, immediately after the acquisition of any stock in such domestic corporation by the controlled foreign corporation, is owned, or is considered as being owned, by such United States shareholders in the aggregate;

“(G) any movable property (other than a vessel or aircraft) which is used for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or under such waters when used on the Continental Shelf of the United States; and”.

(b) **CONSTRUCTIVE OWNERSHIP OF STOCK.**—Section 958(b) (relating to rules for determining stock ownership) is amended— 26 USC 958.

(1) by striking out “954(d)(3),” the first place it appears and inserting in lieu thereof “954(d)(3), 956(b)(2),”;

(2) by striking out “954(d)(3),” the second place it appears and inserting in lieu thereof “954(d)(3), to treat the stock of a domestic corporation as owned by a United States shareholder of the controlled foreign corporation for purposes of section 956(b)(2),”; and

(3) by adding at the end thereof the following new sentence: “Paragraphs (1) and (4) shall not apply for purposes of section 956(b)(2) to treat stock of a domestic corporation as not owned by a United States shareholder.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end. In determining for purposes of any taxable year referred to in the preceding sentence the amount referred to in section 956(a)(2)(A) of the Internal Revenue Code of 1954 for the last taxable year of a corporation beginning before January 1, 1976, the amendments made by this section shall be deemed also to apply to such last taxable year.

26 USC 956
note.

SEC. 1022. REPEAL OF EXCLUSION FOR EARNINGS OF LESS DEVELOPED COUNTRY CORPORATIONS FOR PURPOSES OF SECTION 1248.

(a) **AMENDMENT OF SECTION 1248(d).**—Paragraph (3) of section 1248(d) (relating to exclusion from earnings and profits of gain from certain sales or exchanges of stock in certain foreign corporations) is amended to read as follows:

26 USC 1248.

“(3) **LESS DEVELOPED COUNTRY CORPORATIONS UNDER PRIOR LAW.**—Earnings and profits of a foreign corporation which were accumulated during any taxable year beginning before January 1, 1976, while such corporation was a less developed country corporation under section 902(d) as in effect before the enactment of the Tax Reduction Act of 1975.”

Ante, p. 1626.
26 USC 1 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

26 USC 1248
note.

SEC. 1023. EXCLUSION FROM SUBPART F OF CERTAIN EARNINGS OF INSURANCE COMPANIES.

26 USC 954.

(a) **IN GENERAL.**—Paragraph (3) of section 954(c) (relating to foreign personal holding company income) is amended by striking out “or” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “, or”, and by adding at the end thereof the following new subparagraph:

“(C) dividends, interest, and gains from the sale or exchange of stock or securities received from a person other than a related person (within the meaning of subsection (d) (3)) derived from investments made by an insurance company of an amount of its assets equal to one-third of its premiums earned on insurance contracts (other than life insurance and annuity contracts) during the taxable year (as defined in section 832(b)(4)) which are not directly or indirectly attributable to the insurance or reinsurance of risks of persons who are related persons (within the meaning of subsection (d) (3)).”.

26 USC 954
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.

SEC. 1024. SHIPPING PROFITS OF FOREIGN CORPORATIONS.

26 USC 954.

(a) **CERTAIN SHIPPING OPERATIONS.**—Subsection (b) of section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new paragraph:

“(7) **SPECIAL EXCLUSION FOR FOREIGN BASE COMPANY SHIPPING INCOME.**—Income of a corporation which is foreign base company shipping income under paragraph (4) of subsection (a) (determined without regard to the exclusion under paragraph (2) of this subsection) shall be excluded from foreign base company income if derived by a controlled foreign corporation from, or in connection with, the use (or hiring or leasing for use) of an aircraft or vessel in foreign commerce between two points within the foreign country in which such corporation is created or organized and such aircraft or vessel is registered.”

26 USC 954
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.

PART III—AMENDMENTS AFFECTING TREATMENT OF FOREIGN TAXES**SEC. 1031. REQUIREMENT THAT FOREIGN TAX CREDIT BE DETERMINED ON OVERALL BASIS.**

26 USC 904.

(a) **OVERALL LIMITATION ON FOREIGN TAX CREDIT.**—Section 904 (relating to limitation on foreign tax credit) is amended to read as follows:

“SEC. 904. LIMITATION ON CREDIT.

“(a) **LIMITATION.**—The total amount of the credit taken under section 901(a) shall not exceed the same proportion of the tax against

which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

“(b) **TAXABLE INCOME FOR PURPOSES OF COMPUTING LIMITATION.**—For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

26 USC 151,
642.

“(c) **CARRYBACK AND CARRYOVER OF EXCESS TAX PAID.**—Any amount by which all taxes paid or accrued to foreign countries or possessions of the United States for any taxable year for which the taxpayer chooses to have the benefits of this subpart exceed the limitation under subsection (a) shall be deemed taxes paid or accrued to foreign countries or possessions of the United States in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable years, in that order and to the extent not deemed taxes paid or accrued in a prior taxable year, in the amount by which the limitation under subsection (a) for such preceding or succeeding taxable year exceeds the sum of the taxes paid or accrued to foreign countries or possessions of the United States for such preceding or succeeding taxable year and the amount of the taxes for any taxable year earlier than the current taxable year which shall be deemed to have been paid or accrued in such preceding or subsequent taxable year (whether or not the taxpayer chooses to have the benefits of this subpart with respect to such earlier taxable year). Such amount deemed paid or accrued in any year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions of the United States.

“(d) **APPLICATION OF SECTION IN CASE OF CERTAIN INTEREST INCOME AND DIVIDENDS FROM A DISC OR FORMER DISC.**—

“(1) **IN GENERAL.**—The provisions of subsections (a), (b), and (c) shall be applied separately with respect to each of the following items of income:

“(A) the interest income described in paragraph (2),

“(B) dividends from a DISC or former DISC (as defined in section 992(a)) to the extent such dividends are treated as income from sources without the United States, and

“(C) income other than the interest income described in paragraph (2) and dividends described in subparagraph (B).

“(2) **INTEREST INCOME TO WHICH APPLICABLE.**—For purposes of this subsection, the interest income described in this paragraph is interest other than interest—

“(A) derived from any transaction which is directly related to the active conduct by the taxpayer of a trade or business in a foreign country or a possession of the United States,

“(B) derived in the conduct by the taxpayer of a banking, financing, or similar business,

“(C) received from a corporation in which the taxpayer (or one or more includible corporations in an affiliated group, as defined in section 1504, of which the taxpayer is a member) owns, directly or indirectly, at least 10 percent of the voting stock, or

“(D) received on obligations acquired as a result of the disposition of a trade or business actively conducted by the taxpayer in a foreign country or possession of the United States or as a result of the disposition of stock or obligations of a corporation in which the taxpayer owned at least 10 percent of the voting stock.

For purposes of subparagraph (C), stock owned, directly or indirectly, by or for a foreign corporation, shall be considered as being proportionately owned by its shareholders.

“(e) TRANSITIONAL RULES FOR CARRYBACKS AND CARRYOVERS FOR TAXPAYERS ON THE PER-COUNTRY LIMITATION.—

“(1) APPLICATION OF SUBSECTION.—This subsection shall apply only to a taxpayer who is on the per-country limitation for his last taxable year beginning before January 1, 1976.

“(2) CARRYOVERS TO YEARS BEGINNING AFTER DECEMBER 31, 1975.—In the case of any taxpayer to whom this subsection applies, any carryover from a taxable year beginning before January 1, 1976, may be used in taxable years beginning after December 31, 1975, to the extent provided in subsection (c), but only to the extent such carryover could have been used in such succeeding taxable years if the per-country limitation continued to apply to all taxable years beginning after December 31, 1975.

“(3) CARRYBACKS TO YEARS BEGINNING BEFORE JANUARY 1, 1976.—In the case of any taxpayer to whom this subsection applies, any carryback from a taxable year beginning after December 31, 1975, may be used in taxable years beginning before January 1, 1976, to the extent provided in subsection (c), but only to the extent such carryback could have been used in such preceding taxable year if the per-country limitation continued to apply to all taxable years beginning after December 31, 1975.

“(4) APPLICATION OF LIMITATIONS.—For purposes of this subsection—

“(A) the overall limitation shall be applied before the per-country limitation, and

“(B) where the amount of any carryback or carryover is reduced by the overall limitation, the reduction shall be allocated to the amounts carried from each country or possession in proportion to the taxes paid or accrued to such country or possession in the taxable year from which such amount is being carried.

“(f) CROSS REFERENCE.—

“For increase of limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b).”

(b) CONFORMING AMENDMENTS.—

(1) Sections 901(a), 901(b), and 960(b) are amended by striking out “applicable limitation” each place it appears and inserting in lieu thereof “limitation”.

(2) Subparagraph (B) of section 243(b) (3) is amended to read as follows:

“(B) the members of such affiliated group shall be treated as one taxpayer for purposes of making the election under section 901(a) (relating to allowance of foreign tax credit), and”.

(3) Paragraph (3) of section 1351(d) is amended to read as follows: 26 USC 1351.

“(3) FOREIGN TAXES.—For purposes of this subsection, any choice made under subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year may be changed.”.

(4) Section 1503(b)(1) is amended by striking out “, and if for the taxable year an election under section 904(b)(1) (relating to election of overall limitation on foreign tax credit) is in effect”.

Post, p. 1629.

(5) Sections 383, 6038(b)(1)(A), and 6501(i) are each amended by striking out “section 904(d)” each place it appears therein and inserting in lieu thereof “section 904(c)”.

Ante, p. 1605.
26 USC 6038,
6501.

(6) Subsection (e) of section 907 (relating to transitional rules) is amended—

26 USC 907.

(A) by striking out “(d) and (e) of section 904” in paragraphs (1) and (2) and inserting in lieu thereof “(d) and (e) of section 904 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976)”;

Ante, p. 1520.

(B) by striking out “section 904(a)(1)” in paragraph (2) and inserting in lieu thereof “section 904(a)(1) (as so in effect)”;

(C) by striking out “section 904(e)(2)” in paragraph (2) (A) and inserting in lieu thereof “section 904(e)(2) (as so in effect)”.

(c) EFFECTIVE DATES.—

26 USC 904
note.

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(2) EXCEPTION FOR CERTAIN MINING OPERATIONS.—In the case of a domestic corporation or includible corporation in an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954) which has as of October 1, 1975—

(A) been engaged in the active conduct of the trade or business of the extraction of minerals (of a character with respect to which a deduction for depletion is allowable under section 613 of such Code) outside the United States or its possessions for less than 5 years preceding the date of enactment of this Act,

(B) had deductions properly apportioned or allocated to its gross income from such trade or business in excess of such gross income in at least 2 taxable years,

(C) 80 percent of its gross receipts are from the sale of such minerals, and

(D) made commitments for substantial expansion of such mineral extraction activities,

the amendments made by this section shall apply to taxable years beginning after December 31, 1978. In the case of losses sustained in taxable years beginning before January 1, 1979, by any corporation to which this paragraph applies, the provisions of section 904(f) of such Code shall be applied with respect to such losses under the principles of section 904(a)(1) of such Code as in effect before the enactment of this Act.

(3) EXCEPTION FOR INCOME FROM POSSESSIONS.—In the case of gross income from sources within a possession of the United States (and the deductions properly apportioned or allocated thereto), the amendments made by this section shall apply to taxable years beginning after December 31, 1978. In the case of losses sustained

in a possession of the United States in taxable years beginning before January 1, 1979, the provisions of section 904(f) of such Code shall be applied with respect to such losses under the principles of section 904(a)(1) of such Code as in effect before the enactment of this Act.

(4) **CARRYBACKS AND CARRYOVERS IN THE CASE OF MINING OPERATIONS AND INCOME FROM A POSSESSION.**—In the case of a taxpayer to whom paragraph (2) or (3) of this subsection applies, section 904(e) of such Code shall apply except that “January 1, 1979” shall be substituted for “January 1, 1976” each place it appears therein. If such a taxpayer elects the overall limitation for a taxable year beginning before January 1, 1979, such section 904(e) shall be applied by substituting “the January 1, of the last year for which such taxpayer is on the per-country limitation” for “January 1, 1976” each place it appears therein.

SEC. 1032. RECAPTURE OF FOREIGN LOSSES.

26 USC 904.

(a) **IN GENERAL.**—Section 904 (as amended by section 1031 of this Act) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) **RECAPTURE OF OVERALL FOREIGN LOSS.**—

Post, p. 1643.

“(1) **GENERAL RULE.**—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall foreign loss for any taxable year, that portion of the taxpayer’s taxable income from sources without the United States for each succeeding taxable year which is equal to the lesser of—

“(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

“(B) 50 percent (or such larger percent as the taxpayer may choose) of the taxpayer’s taxable income from sources without the United States for such succeeding taxable year, shall be treated as income from sources within the United States (and not as income from sources without the United States).

“(2) **OVERALL FOREIGN LOSS DEFINED.**—For purposes of this subsection, the term ‘overall foreign loss’ means the amount by which the gross income for the taxable year from sources without the United States (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

“(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

“(B) any—

“(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

“(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

“(3) **DISPOSITIONS.**—

“(A) **IN GENERAL.**—For purposes of this chapter, if property which has been used predominantly without the United States in a trade or business is disposed of during any taxable year—

“(i) the taxpayer, notwithstanding any other provision of this chapter (other than paragraph (1)), shall be deemed to have received and recognized taxable income

from sources without the United States in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the overall foreign losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and

“(ii) paragraph (1) shall be applied with respect to such income by substituting ‘100 percent’ for ‘50 percent’.

In determining for purposes of this subparagraph whether the predominant use of any property has been without the United States, there shall be taken into account use during the 3-year period ending on the date of the disposition (or, if shorter, the period during which the property has been used in the trade or business).

“(B) DISPOSITION DEFINED AND SPECIAL RULES.—

“(i) For purposes of this subsection, the term ‘disposition’ includes a sale, exchange, distribution, or gift of property whether or not gain or loss is recognized on the transfer.

“(ii) Any taxable income recognized solely by reason of subparagraph (A) shall have the same characterization it would have had if the taxpayer had sold or exchanged the property.

“(iii) The Secretary shall prescribe such regulations as he may deem necessary to provide for adjustments to the basis of property to reflect taxable income recognized solely by reason of subparagraph (A).

Regulations.

“(C) EXCEPTIONS.—Notwithstanding subparagraph (B), the term ‘disposition’ does not include—

“(i) a disposition of property which is not a material factor in the realization of income by the taxpayer, or

“(ii) a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a).

26 USC 381.

“(4) DETERMINATION OF FOREIGN OIL RELATED LOSS WHERE SECTION 907 APPLIES.—In the case of a corporation to which section 907 (b) (1) applies, the foreign oil related loss shall be the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

Post, p. 1630.

“(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

“(B) any—

“(i) foreign expropriation loss for such year, as defined in section 172(k) (1), or

“(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft, to the extent such loss is not compensated for by insurance or otherwise.”.

26 USC 907.

- (b) **COORDINATION WITH SECTION 907.**—Section 907 is amended—
 (1) by striking out the last sentence of subsection (b) (as amended by section 1035(b)), and
 (2) by striking out subsection (f), and by redesignating subsection (g) as subsection (f).

26 USC 904
note.

- (c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b) (2) shall apply to losses sustained in taxable years beginning after December 31, 1975, and the amendment made by subsection (b) (1) shall apply to taxable years beginning after December 31, 1975.

(2) **OBLIGATIONS OF FOREIGN GOVERNMENTS.**—The amendments made by subsection (a) shall not apply to losses on the sale, exchange, or other disposition of bonds, notes, or other evidences of indebtedness issued before May 14, 1976, by a foreign government or instrumentality thereof for the acquisition of property located in that country or stock of a corporation (created or organized in or under the laws of that foreign country) or indebtedness of such corporation.

(3) **SUBSTANTIAL WORTHLESSNESS BEFORE ENACTMENT.**—The amendments made by subsection (a) shall not apply to losses incurred on the loss from stock or indebtedness of a corporation in which the taxpayer owned at least 10 percent of the voting stock and which has sustained losses in 3 out of the last 5 taxable years beginning before January 1, 1976, which has sustained an overall loss for those 5 years, and with respect to which the taxpayer has terminated or will terminate all operations by reason of sale, liquidation, or other disposition before January 1, 1977, of such corporation or its assets.

(4) **LIMITATION BASED ON DEFICIT IN EARNINGS AND PROFITS.**—If paragraph (3) would apply to a taxpayer but for the fact that the loss is sustained after December 31, 1976, and if the loss is sustained in a taxable year beginning before January 1, 1979, the amendments made by subsection (a) shall not apply to such loss to the extent that there was on December 31, 1975, a deficit in earnings and profits in the corporation from which the loss arose.

SEC. 1033. DIVIDENDS FROM LESS DEVELOPED COUNTRY CORPORATIONS TO BE GROSSED UP FOR PURPOSES OF DETERMINING UNITED STATES INCOME AND FOREIGN TAX CREDIT AGAINST THAT INCOME.

26 USC 902.

- (a) **FOREIGN TAXES DEEMED PAID BY DOMESTIC CORPORATIONS.**—Section 902 (relating to credit for corporate stockholders in foreign corporations) is amended to read as follows:

“SEC. 902. CREDIT FOR CORPORATE STOCKHOLDER IN FOREIGN CORPORATION.

“(a) **TREATMENT OF TAXES PAID BY FOREIGN CORPORATION.**—For purposes of this subpart, a domestic corporation which owns at least 10 percent of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends (determined without regard to section 78) bears to the amount of such

accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(b) FOREIGN SUBSIDIARY OF FIRST AND SECOND FOREIGN CORPORATION.—

"(1) **ONE TIER.**—If the foreign corporation described in subsection (a) (hereinafter in this subsection referred to as the 'first foreign corporation') owns 10 percent or more of the voting stock of a second foreign corporation from which it receives dividends in any taxable year, it shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such second foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such second foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(2) **TWO TIERS.**—If such first foreign corporation owns 10 percent or more of the voting stock of a second foreign corporation which, in turn, owns 10 percent or more of the voting stock of a third foreign corporation from which the second foreign corporation receives dividends in any taxable year, the second foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such third foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such third foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes.

"(3) VOTING STOCK REQUIREMENT.—For purposes of this subpart—

"(A) paragraph (1) shall not apply unless the percentage of voting stock owned by the domestic corporation in the first foreign corporation and the percentage of voting stock owned by the first foreign corporation in the second foreign corporation when multiplied together equal at least 5 percent, and

"(B) paragraph (2) shall not apply unless the percentage arrived at for purposes of applying paragraph (1) when multiplied by the percentage of voting stock owned by the second foreign corporation in the third foreign corporation is equal to at least 5 percent.

"(c) APPLICABLE RULES.—

"(1) **ACCUMULATED PROFITS DEFINED.**—For purposes of this section, the term 'accumulated profits' means, with respect to any foreign corporation, the amount of its gains, profits, or income computed without reduction by the amount of the income, war profits, and excess profits taxes imposed on or with respect to such profits or income by any foreign country or by any possession of the United States. The Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid, treating dividends paid in the first 60 days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having

been paid from the most recently accumulated gains, profits, or earnings.

“(2) ACCOUNTING PERIODS.—In the case of a foreign corporation the income, war profits, and excess profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word ‘year’ as used in this subsection, shall be construed to mean such accounting period.

“(d) CROSS REFERENCES.—

“(1) For inclusion in gross income of an amount equal to taxes deemed paid under subsection (a), see section 78.

“(2) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by a United States shareholder with respect to a controlled foreign corporation, see section 960.

“(3) For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038.”

(b) CONFORMING AMENDMENTS.—

26 USC 78.

(1) Section 78 (relating to dividends received from certain foreign corporations) is amended—

(A) by striking out “section 902(a)(1)” and inserting in lieu thereof “section 902(a)”, and

(B) by striking out “section 960(a)(1)(C)” and inserting in lieu thereof “section 960(a)(1)”.

26 USC 960.

(2) Paragraph (1) of section 960(a) (relating to special rules for foreign tax credit) is amended by striking out “bears to—” and all that follows down through the period at the end of such paragraph and inserting in lieu thereof “bears to the entire amount of the earnings and profits of such foreign corporation for such taxable year.”

26 USC 535.

(3) Section 535(b)(1) (relating to accumulated taxable income) is amended by striking out “section 902(a)(1) or 960(a)(1)(C)” and inserting in lieu thereof “section 902(a) or 960(a)(1)”.

26 USC 545.

(4) Section 545(b)(1) (relating to undistributed personal holding company income) is amended by striking out “section 902(a)(1) or 960(a)(1)(C)” and inserting in lieu thereof “section 902(a) or 960(a)(1)”.

26 USC 902
note.

(c) EFFECTIVE DATES.—The amendments made by this section shall apply—

(1) in respect of any distribution received by a domestic corporation after December 31, 1977, and

(2) in respect of any distribution received by a domestic corporation before January 1, 1978, in a taxable year of such corporation beginning after December 31, 1975, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year (of such foreign corporation) beginning after December 31, 1975.

For purposes of paragraph (2), a distribution made by a foreign corporation out of its profits which are attributable to a distribution received from a foreign corporation to which section 902(b) of the Internal Revenue Code of 1954 applies shall be treated as made out of the accumulated profits of a foreign corporation for a taxable year beginning before January 1, 1976, to the extent that such distribution was paid out of the accumulated profits of such foreign corporation for a taxable year beginning before January 1, 1976.

SEC. 1034. TREATMENT OF CAPITAL GAINS FOR PURPOSES OF FOREIGN TAX CREDIT.

(a) **IN GENERAL.**—Section (b) of section 904 (relating to taxable income for purposes of computing the foreign tax credit limitation), as amended by section 1031 of this Act, is amended to read as follows:

26 USC 904.

“(b) **TAXABLE INCOME FOR PURPOSE OF COMPUTING LIMITATION.**—

“(1) **PERSONAL EXEMPTIONS.**—For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

“(2) **CAPITAL GAINS.**—For purposes of subsection (a)—

“(A) **CORPORATIONS.**—In the case of a corporation—

“(i) the taxable income of such corporation from sources without the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by three-eighths of foreign source net capital gain,

“(ii) the entire taxable income of such corporation shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by three-eighths of net capital gain, and

“(iii) any net capital loss from sources without the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to three-eighths of the excess of net capital gain from sources within the United States over net capital gain.

“(B) **OTHER TAXPAYERS.**—In the case of a taxpayer other than a taxpayer described in subparagraph (A), taxable income from sources without the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

“(3) **DEFINITIONS.**—For purposes of this subsection—

“(A) **FOREIGN SOURCE CAPITAL GAIN NET INCOME.**—The term ‘foreign source capital gain net income’ means the lesser of—

“(i) capital gain net income from sources without the United States, or

“(ii) capital gain net income.

“(B) **FOREIGN SOURCE NET CAPITAL GAIN.**—The term ‘foreign source net capital gain’ means the lesser of—

“(i) net capital gain from sources without the United States, or

“(ii) net capital gain.

“(C) **EXCEPTION FOR GAIN FROM THE SALE OF CERTAIN PERSONAL PROPERTY.**—For purposes of this paragraph, there shall be included as gain from sources within the United States any gain from sources without the United States from the sale or exchange of a capital asset which is personal property which—

“(i) in the case of an individual, is sold or exchanged outside of the country (or possession) of the individual’s residence,

“(ii) in the case of a corporation, is stock in a second corporation sold or exchanged other than in a country (or possession) in which such second corporation derived more than 50 percent of its gross income for the 3-year

period ending with the close of such second corporation's taxable year immediately preceding the year during which the sale or exchange occurred, or

"(iii) in the case of any taxpayer, is personal property (other than stock in a corporation) sold or exchanged other than in a country (or possession) in which such property is used in a trade or business of the taxpayer or in which such taxpayer derived more than 50 percent of its gross income for the 3-year period ending with the close of its taxable year immediately preceding the year during which the sale or exchange occurred,

unless such gain is subject to an income, war profits, or excess profits tax of a foreign country or possession of the United States, and the rate of tax applicable to such gain is 10 percent or more of the gain from the sale or exchange (computed under this chapter).

"(D) SECTION 1231 GAINS.—The term 'gain from the sale or exchange of capital assets' includes any gain so treated under section 1231."

(b) EFFECTIVE DATES.—The amendment made by this section shall apply to taxable years beginning after December 31, 1975, except that the provisions of section 904(b)(3)(C) shall only apply to sales or exchanges made after November 12, 1975.

SEC. 1035. FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) REDUCTION IN LIMITATION ON FOREIGN TAX CREDITS ALLOWABLE FOR OIL AND GAS EXTRACTION INCOME.—Subsection (a) of section 907 (relating to reduction in amounts allowable as foreign tax under section 901) is amended to read as follows:

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year, multiplied by

"(2) the percentage which is the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11."

(b) FOREIGN OIL RELATED INCOME EARNED BY INDIVIDUALS.—Subsection (b) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—

"(1) CORPORATIONS.—In the case of a corporation, the provisions of section 904 shall be applied separately with respect to—

"(A) foreign oil related income, and

"(B) other taxable income.

"(2) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, the provisions of subsection (a) shall not apply and the provisions of section 904 shall be applied separately with respect to—

"(A) foreign oil and gas extraction income, and

"(B) other taxable income (including other foreign oil related income).

In the case of a corporation, with respect to foreign oil-related income, and in the case of a taxpayer other than a corporation, with respect to foreign oil and gas extraction income, the overall limitation provided

"Gain from the sale or exchange of capital assets."

26 USC 904 note.

Ante, p. 1620.

26 USC 907.

Ante, p. 1620.

by section 904(a)(2) shall apply and the per-country limitation provided by subsection (a)(1) shall not apply.” *Ante*, p. 1620.

(c) TAX CREDIT FOR PRODUCTION-SHARING CONTRACTS.—

26 USC 907
note.

(1) For purposes of section 901 of the Internal Revenue Code of 1954, there shall be treated as income, war profits, and excess profits taxes to be taken into account under section 907(a) of such Code amounts designated as income taxes of a foreign government by such government (which otherwise would not be treated as taxes for purposes of section 901 of such Code) with respect to production-sharing contracts for the extraction of foreign oil or gas.

(2) The amounts specified in paragraph (1) shall not exceed the lesser of—

(A) the product of the foreign oil and gas extraction income with respect to all such production-sharing contracts multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code, or

(B) the excess of the total amount of foreign oil and gas extraction income (as defined in section 907(c)(1) of such Code) for the taxable year multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code over the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) without regard to paragraph (1) during the taxable year with respect to foreign oil and gas extraction income.

(3) The production-sharing contracts taken into account for purposes of paragraph (1) shall be those contracts which were entered into before April 8, 1976, for the sharing of foreign oil and gas production with a foreign government (or an entity owned by such government) with respect to which amounts claimed as taxes paid or accrued to such foreign government for taxable years beginning before June 30, 1976, will not be disallowed as taxes. No such contract shall be taken into account for any taxable year ending after December 31, 1977.

(d) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—

(1) IN GENERAL.—Section 907 (as amended by section 1032) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—

“(1) IN GENERAL.—If the amount of the oil and gas extraction taxes paid or accrued during any taxable year exceeds the limitation provided by subsection (a) for such taxable year (hereinafter in this subsection referred to as the ‘unused credit year’), so much of such excess as does not exceed 2 percent of foreign oil and gas extraction income for such taxable year shall be deemed to be oil and gas extraction taxes paid or accrued in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable year, in that order and to the extent not deemed tax paid or accrued in a prior taxable year by reason of the limitation imposed by paragraph (2). Such amount deemed paid or accrued in any taxable year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions. For purposes of this

26 USC 907.

subsection, the terms 'second preceding taxable year', and 'first preceding taxable year' do not include any taxable year ending before January 1, 1975. For purposes of determining the amount of such taxes which may be deemed paid or accrued in any taxable year ending in 1975, 1976, or 1977, the first sentence of this paragraph shall be applied by substituting 'such excess' for 'so much of such excess as does not exceed 2 percent of the foreign oil and gas extraction income for such taxable year'.

"(2) LIMITATION.—The amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued in any preceding or succeeding taxable year shall not exceed the lesser of—

"(A) the amount by which the limitation provided by subsection (a) for such taxable year exceeds the sum of—

"(i) the oil and gas extraction taxes paid or accrued during such taxable year, plus

"(ii) the amounts of the oil and gas extraction taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year; or

"(B) the amount by which the limitation provided by section 904 on taxes paid or accrued with respect to foreign oil-related income for such taxable year exceeds the sum of—

"(i) the taxes paid or accrued (or deemed to have been paid under section 902 or 960) to all foreign countries and possessions of the United States with respect to such income during such taxable year,

"(ii) the amount of such taxes which were deemed paid or accrued in such taxable year under section 904(c) and which are attributable to taxable years preceding the unused credit year, plus

"(iii) the amount of the oil and gas extraction taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year.

"(3) SPECIAL RULES.—

"(A) In the case of any taxable year which is an unused credit year under this subsection and which is an unused credit year under section 904(c) with respect to oil-related income, the provisions of this subsection shall be applied before section 904(c).

"(B) For purposes of determining the amount of oil-related taxes paid or accrued in any taxable year which may be deemed paid or accrued in a preceding or succeeding taxable year under section 904(c), any tax deemed paid or accrued in such preceding or succeeding taxable year under this subsection shall be considered to be tax paid or accrued in such preceding or succeeding taxable year.

"(C) For purposes of determining the amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued in any taxable year ending before January 1, 1977, subparagraph (A) of paragraph (2) shall be applied as if the amendment made by section 1035(a) of the Tax Reform Act of 1976 applied to such taxable year."

(2) DEFINITION OF OIL AND GAS EXTRACTION TAXES.—Subsection (c) of section 907 is amended by adding at the end thereof the following new paragraph:

Ante, p. 1620.

Ante, p. 1626.

26 USC 960.

26 USC 907.

“(5) OIL AND GAS EXTRACTION TAXES.—The term ‘oil and gas extraction taxes’ means any income, war profits, and excess profits tax paid or accrued (or deemed to have been paid under section 902 or 960) during the taxable year with respect to foreign oil and gas extraction income (determined without regard to paragraph (4)) or loss which would be taken into account for purposes of section 901 without regard to this section.”

Ante, p. 1626.
26 USC 960.

(3) TECHNICAL AMENDMENT.—Subsection (i) of section 6501, as amended by section 1031, (relating to foreign tax carrybacks) is amended—

26 USC 6501.

(A) by striking out “excess foreign taxes)” and inserting in lieu thereof “excess foreign taxes) or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes)”;

Ante, p. 1631.

(B) by striking out “section 904(c)” the second place it appears and inserting in lieu thereof “section 904(c) or 907(f)”.

(e) EFFECTIVE DATES.—

26 USC 907
note.

(1) The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1976.

(2) The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1974; except that the last sentence of section 907(b) of the Internal Revenue Code of 1954 shall only apply to taxable years ending after December 31, 1975.

Ante, p. 1630.

(3) The amendment made by subsection (c) shall apply to taxable years beginning after June 29, 1976.

(4) The amendments made by subsection (d) shall apply to taxes paid or accrued during taxable years ending after the date of the enactment of this Act.

SEC. 1036. UNDERWRITING INCOME.

(a) TREATMENT AS INCOME FROM SOURCES WITHIN THE UNITED STATES.—Section 861(a) (relating to gross income from sources within the United States) is amended by adding the following new paragraph:

26 USC 861.

“(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the insurance of United States risks (as defined in section 953(a)).”.

(b) TREATMENT AS FOREIGN SOURCE INCOME.—Section 862(a) (relating to gross income from sources without the United States) is amended by adding the following new paragraph:

26 USC 862.

“(7) Underwriting income other than that derived from sources within the United States as provided in section 861(a)(7).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

26 USC 861
note.

SEC. 1037. THIRD TIER FOREIGN TAX CREDIT WHEN SECTION 951 APPLIES.

(a) FOREIGN TAXES DEEMED PAID BY FOREIGN CORPORATIONS.—Section 960(a)(1) (relating to special rules for foreign tax credits), as amended in section 1033, is further amended to read as follows:

26 USC 960.

“(1) GENERAL RULE.—For purposes of subpart A of this part, if there is included, under section 951(a), in the gross income of a domestic corporation any amount attributable to earnings and profits—

“(A) of a foreign corporation (hereafter in this subsection referred to as the ‘first foreign corporation’) at least 10 per-

cent of the voting stock of which is owned by such domestic corporation, or

“(B) of a second foreign corporation (hereinafter in this subsection referred to as the ‘second foreign corporation’) at least 10 percent of the voting stock of which is owned by the first foreign corporation, or

“(C) of a third foreign corporation (hereinafter in this subsection referred to as the ‘third foreign corporation’) at least 10 percent of the voting stock of which is owned by the second foreign corporation,

then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in gross income of the domestic corporation bears to the entire amount of the earnings and profits of such corporation for such taxable year. This paragraph shall not apply with respect to any amount included in the gross income of such domestic corporation attributable to earnings and profits of the second foreign corporation or of the third foreign corporation unless, in the case of the second foreign corporation, the percentage-of-voting-stock requirement of section 902(b)(3)(A) is satisfied, and in the case of the third foreign corporation, the percentage-of-voting-stock requirement of section 902(b)(3)(B) is satisfied.”

26 USC 960
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to earnings and profits of a foreign corporation included, under section 951(a) of the Internal Revenue Code of 1954, in the gross income of a domestic corporation in taxable years beginning after December 31, 1976.

PART IV—MONEY OR OTHER PROPERTY MOVING OUT OF OR INTO THE UNITED STATES

SEC. 1041. PORTFOLIO DEBT INVESTMENTS IN UNITED STATES OF NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

26 USC 861.

The last sentence of section 861(c) (relating to interest on deposits, etc.) is hereby repealed.

SEC. 1042. CHANGES IN RULING REQUIREMENTS UNDER SECTION 367; CERTAIN CHANGES IN SECTION 1248.

26 USC 367.

(a) **AMENDMENT OF SECTION 367.**—Section 367 (relating to foreign corporations) is amended to read as follows:

“SEC. 367. FOREIGN CORPORATIONS.

“(a) **TRANSFERS OF PROPERTY FROM THE UNITED STATES.**—

“(1) **GENERAL RULE.**—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, there is a transfer of property (other than stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization) by a United States person to a foreign corporation, for purposes of determining the extent to which gain shall be recognized on such transfer, a foreign corporation shall not be considered to be a corporation unless, pursuant to a request filed not later than the close of the 183d day after the beginning of such

transfer (and filed in such form and manner as may be prescribed by regulations by the Secretary), it is established to the satisfaction of the Secretary that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

“(2) EXCEPTION FOR TRANSACTIONS DESIGNATED BY THE SECRETARY.—Paragraph (1) shall not apply to any exchange (otherwise within paragraph (1)), or to any type of property, which the Secretary by regulations designates as not requiring the filing of a request.

“(b) OTHER TRANSFERS.—

“(1) EFFECT OF SECTION TO BE DETERMINED UNDER REGULATIONS.—In the case of any exchange described in section 332, 351, 354, 355, 356, or 361 in connection with which there is no transfer of property described in subsection (a) (1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes.

26 USC 332,
351, 354, 355,
356, 361.

“(2) REGULATIONS RELATING TO SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS.—The regulations prescribed pursuant to paragraph (1) shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person, including regulations providing—

“(A) the circumstances under which—

“(i) gain shall be recognized currently, or amounts included in gross income currently as a dividend, or both, or

“(ii) gain or other amounts may be deferred for inclusion in the gross income of a shareholder (or his successor in interest) at a later date, and

“(B) the extent to which adjustments shall be made to earnings and profits, basis of stock or securities, and basis of assets.

“(c) TRANSACTIONS TO BE TREATED AS EXCHANGES.—

“(1) SECTION 355 DISTRIBUTION.—For purposes of this section, any distribution described in section 355 (or so much of section 356 as relates to section 355) shall be treated as an exchange whether or not it is an exchange.

“(2) CONTRIBUTION OF CAPITAL TO CONTROLLED CORPORATIONS.—For purposes of this chapter, any transfer of property to a foreign corporation as a contribution to the capital of such corporation by one or more persons who, immediately after the transfer, own (within the meaning of section 318) stock possessing at least 80 percent of the total combined voting power of all classes of stock of such corporation entitled to vote shall be treated as an exchange of such property for stock of the foreign corporation equal in value to the fair market value of the property transferred.

“(d) TRANSITIONAL RULE.—In the case of any exchange beginning before January 1, 1978—

“(1) subsection (a) shall be applied without regard to whether or not there is a transfer of property described in subsection (a) (1), and

“(2) subsection (b) shall not apply.”.

26 USC 1248.

(b) EARNINGS AND PROFITS OF SUBSIDIARIES OF FOREIGN CORPORATIONS FOR PURPOSES OF SECTION 1248.—Subparagraph (C) of section 1248(c) (2) is amended by striking out “; and” at the end thereof and inserting in lieu thereof the following: “(or on the date of any sale or exchange of the stock of such other foreign corporation occurring during the 5-year period ending on the date of the sale or exchange of the stock of such foreign corporation, to the extent not otherwise taken into account under this section but not in excess of the fair market value of the stock of such other foreign corporation sold or exchanged over the basis of such stock (for determining gain) in the hands of the transferor); and”.

(c) CERTAIN SECTION 311, 336, OR 337 TRANSACTIONS.—

(1) GENERAL RULE.—Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

“(f) CERTAIN SECTION 311, 336, OR 337 TRANSACTIONS.—

“(1) IN GENERAL.—If—

“(A) a domestic corporation satisfies the stock ownership requirements of subsection (a) (2) with respect to a foreign corporation, and

“(B) such domestic corporation distributes, sells, or exchanges stock of such foreign corporation in a transaction to which section 311, 336, or 337 applies,

then, notwithstanding any other provision of this subtitle, an amount equal to the excess of the fair market value of such stock over its adjusted basis in the hands of the domestic corporation shall be included in the gross income of the domestic corporation as a dividend to the extent of the earnings and profits of the foreign corporation attributable (under regulations prescribed by the Secretary) to such stock which were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, and during the period or periods the stock was held by such domestic corporation while such foreign corporation was a controlled foreign corporation. For purposes of subsections (c) (2), (d), and (h), a distribution, sale, or exchange of stock to which this subsection applies shall be treated as a sale of stock to which subsection (a) applies.

“(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—In the case of any distribution of stock of a foreign corporation, paragraph (1) shall not apply if such distribution is to a domestic corporation—

“(A) which is treated under this section as holding such stock for the period for which the stock was held by the distributing corporation, and

“(B) which, immediately after the distribution, satisfies the stock ownership requirements of subsection (a) (2) with respect to such foreign corporation.

“(3) NONAPPLICATION OF PARAGRAPH (1) IN CERTAIN CASES.—Paragraph (1) shall not apply to a sale or exchange to which section 337 applies if—

“(A) throughout the period or periods the stock of the foreign corporation was held by the domestic corporation (or predecessor referred to in paragraph (2)) all the stock of such domestic corporation was owned by United States persons who satisfied the 10-percent stock ownership require-

ments of subsection (a) (2) with respect to such domestic corporation, and

“(B) subsection (a) applies to the proceeds of the sale or exchange and also applied to all transactions described in subsection (e) (1) which took place during the period or periods referred to in subparagraph (A).”

“(4) APPLICATION TO CASES DESCRIBED IN SUBSECTION (e).—To the extent that earnings and profits are taken into account under this subsection, they shall be excluded and not taken into account for purposes of subsection (e).”.

(2) INTEREST IN PARTNERSHIP HOLDING STOCK IN CERTAIN FOREIGN CORPORATIONS.—The last sentence of section 751(c) (relating to unrealized receivables) is amended— 26 USC 751.

(A) by striking out “(as defined in section 1245(a) (3)),” and inserting in lieu thereof “as defined in section 1245(a) (3)”, stock in certain foreign corporations (as described in section 1248),” and

(B) by striking out “1245(a),” and inserting in lieu thereof “1245(a), 1248(a),”.

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of paragraph (2) of subsection (c) of section 1248 is amended by striking out “subsection (a) applies to a sale or exchange” and inserting in lieu thereof “subsection (a) or (f) applies to a sale, exchange, or distribution”. 26 USC 1248.

(B) Subparagraph (A) of paragraph (3) of subsection (g) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended to read as follows:

“(A) a dividend (other than an amount treated as a dividend under subsection (f))”,.

(C) Subsection (h) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended by striking out “subsection (a)” each place it appears and inserting in lieu thereof “subsection (a) or (f)”.

(d) DECLARATORY JUDGMENT PROCEDURE FOR REVIEW BY THE TAX COURT OF SECTION 367 DETERMINATIONS.—

Ante, p. 1634.

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

“SEC. 7477. DECLARATORY JUDGMENTS RELATING TO TRANSFERS OF PROPERTY FROM THE UNITED STATES. 26 USC 7477.

“(a) CREATION OF REMEDY.—

“(1) IN GENERAL.—In a case of actual controversy involving—

“(A) a determination by the Secretary—

“(i) that an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

“(ii) of the terms and conditions pursuant to which an exchange described in section 367(a) (1) will be determined not to be in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

“(B) a failure by the Secretary to make a determination as to whether an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes,

upon the filing of an appropriate pleading, the Tax Court may make the appropriate declaration referred to in paragraph (2). Such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

“(2) SCOPE OF DECLARATION.—The declaration referred to in paragraph (1) shall be—

“(A) in the case of a determination referred to in subparagraph (A) of paragraph (1), whether or not such determination is reasonable, and, if it is not reasonable, a determination of the issue set forth in subparagraph (A) (ii) of paragraph (1), and

“(B) in the case of a failure described in subparagraph (B) of paragraph (1), the determination of the issues set forth in subparagraph (A) of paragraph (1).

“(b) LIMITATIONS.—

“(1) PETITIONER.—A pleading may be filed under this section only by a petitioner who is a transferor or transferee of stock, securities, or property transferred in an exchange described in section 367(a) (1).

Ante, p. 1634.

“(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Secretary to make a determination with respect to whether or not an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes before the expiration of 270 days after the request for such determination was made.

“(3) EXCHANGE SHALL HAVE BEGUN.—No proceeding may be maintained under this section unless the exchange is described in section 367(a) (1) with respect to which a decision of the Tax Court is sought has begun before the filing of the pleading.

“(4) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail to the petitioners referred to in paragraph (1) notice of his determination with respect to whether or not an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes or with respect to the terms and conditions pursuant to which such an exchange will be determined not to be made in pursuance of such a plan, no proceeding may be initiated under this section by any petitioner unless the pleading is filed before the 91st day after the day after such notice is mailed to such petitioner.

“(c) COMMISSIONERS.—The chief judge of the Tax Court may assign proceedings under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.”

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 7482(b) (1) (relating to venue for review of Tax Court decisions) is amended by striking out “or” at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “, or ”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) in the case of a person seeking a declaratory judgment under section 7477, the legal residence of such person if such person is not a corporation, or the principal place of business or principal office or agency of such person if such person is a corporation.”

Ante, p. 1637.

(B) Section 7482(b)(1) is further amended—

26 USC 7482.

(i) by striking out “subparagraph (A), (B), and (C) do not apply” in the second sentence and inserting in lieu thereof “no subparagraph of the preceding sentence applies”; and

(ii) by striking out “section 7476” in the last sentence and inserting in lieu thereof “section 7476 or 7477”.

(C) The heading for section 7476 is amended to read as follows:

26 USC 7476.

“SEC. 7476. DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN RETIREMENT PLANS.”

(D) The table of sections for part IV of subchapter C of chapter 76 is amended to read as follows:

“Sec. 7476. Declaratory judgments relating to qualification of certain retirement plans.

“Sec. 7477. Declaratory judgments relating to transfers of property from United States.”

(E) The heading of part IV of subchapter C of chapter 76 is amended to read as follows:

“PART IV—DECLARATORY JUDGMENTS”.

(F) The table of parts for subchapter C of chapter 76 is amended by striking out the item relating to part IV and inserting in lieu thereof the following:

“Part IV. Declaratory judgments.”

(e) EFFECTIVE DATES.—

26 USC 367
note.

(1) The amendments made by this section (other than by subsection (d)) shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date. The amendments made by subsection (d) shall apply with respect to pleadings filed with the Tax Court after the date of the enactment of this Act but only with respect to transfers beginning after October 9, 1975.

(2) In the case of any exchange described in section 367 of the Internal Revenue Code of 1954 (as in effect on December 31, 1974) in any taxable year beginning after December 31, 1962, and before the date of the enactment of this Act, which does not involve the transfer of property to or from a United States person, a taxpayer shall have for purposes of such section until 183 days after the date of the enactment of this Act to file a request with the Secretary of the Treasury or his delegate seeking to establish to the satisfaction of the Secretary of the Treasury or his delegate that such exchange was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes and that for purposes of such section a foreign corporation is to be treated as a foreign corporation.

SEC. 1043. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

(a) AMENDMENT OF SUBCHAPTER L.—Subpart E of part I of subchapter L of chapter 1 (relating to life insurance companies) is amended by inserting after section 819 the following new section:

26 USC 819A.

"SEC. 819A. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

"(a) **EXCLUSION OF ITEMS.**—In the case of a domestic mutual insurance company which—

"(1) is a life insurance company,

"(2) has a contiguous country life insurance branch, and

"(3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each and every item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

"(b) **CONTIGUOUS COUNTRY LIFE INSURANCE BRANCH.**—For purposes of this section, the term 'contiguous country life insurance branch' means a branch which—

"(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

"(2) has its principal place of business in such contiguous country, and

"(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

"Insurance contract."

For purposes of this section, the term 'insurance contract' means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

"(c) **SEPARATE ACCOUNTING REQUIRED.**—Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) **RECOGNITION OF GAIN ON ASSETS IN BRANCH ACCOUNT.**—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

"(e) **TRANSACTIONS BETWEEN CONTIGUOUS COUNTRY BRANCH AND DOMESTIC LIFE INSURANCE COMPANY.**—

"(1) **REIMBURSEMENT FOR HOME OFFICE SERVICES, ETC.**—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reim-

bursament, credit, or allowance had been received from a separate person.

“(2) REPATRIATION OF INCOME.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the life insurance company taxable income of the domestic life insurance company (as computed without regard to this paragraph).

“(B) LIMITATION.—The addition provided by subparagraph (A) for the taxable year with respect to any contiguous country life insurance branch shall not exceed the amount by which—

“(i) the aggregate decrease in the life insurance company taxable income of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds

“(ii) the amount of additions to life insurance company taxable income pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.

“(f) OTHER RULES.—

“(1) TREATMENT OF FOREIGN TAXES.—

“(A) IN GENERAL.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

26 USC 901.

“(B) TREATMENT OF REPATRIATED AMOUNTS.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e) (2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

“(2) UNITED STATES SOURCE INCOME ALLOCABLE TO CONTIGUOUS COUNTRY BRANCH.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties, to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

“(g) ELECTION.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year beginning after December 31, 1975. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be

made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

“(h) **SPECIAL RULE FOR DOMESTIC STOCK LIFE INSURANCE COMPANIES.**—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b) (3)), the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. Subsection (a) shall apply to the stock of such foreign corporation as if such domestic company were a mutual company and as if the stock were an item described in subsection (c). Subsection (c) (2) shall apply to amounts transferred or credited to such domestic company as if such domestic company and such foreign corporation constituted one domestic mutual life insurance company. The insurance contracts which may be transferred pursuant to this subsection shall include only those which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such subpart E is amended by inserting after the item relating to section 819 the following new item:

“Sec. 819A. Contiguous country branches of domestic life insurance companies.”

26 USC 819A
note.

(c) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1044. TRANSITIONAL RULE FOR BOND, ETC., LOSSES OF FOREIGN BANKS.

26 USC 582.

(a) **GENERAL RULE.**—Section 582(c) (relating to bond, etc., losses and gains of financial institutions) is amended by adding at the end thereof the following new paragraph:

“(4) **TRANSITIONAL RULE FOR BANKS.**—In the case of a corporation which would be a bank except for the fact that it is a foreign corporation, the net gain, if any, for the taxable year on sales and exchanges described in paragraph (1) shall be considered as gain from the sale or exchange of a capital asset to the extent such net gain does not exceed the portion of any capital loss carryover to such taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) for a taxable year beginning before July 12, 1969. For purposes of the preceding sentence, the portion of a net capital loss for a taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) is the amount of the net capital loss on such sales or exchanges

for such taxable year (but not in excess of the net capital loss for such taxable year)."

(b) EFFECTIVE DATE.—

26 USC 582
note.

(1) The amendment made by subsection (a) shall apply with respect to taxable years beginning after July 11, 1969.

(2) If the refund or credit of any overpayment attributable to the application of the amendment made by subsection (a) to any taxable year is otherwise prevented by the operation of any law or rule of law (other than section 7122 of the Internal Revenue Code of 1954, relating to compromises) on the day which is one year after the date of the enactment of this Act, such credit or refund shall be nevertheless allowed or made if claim therefor is filed on or before such day.

PART V—SPECIAL CATEGORIES OF FOREIGN TAX TREATMENT

SEC. 1051. TAX TREATMENT OF CORPORATIONS CONDUCTING TRADE OR BUSINESS IN PUERTO RICO AND POSSESSIONS OF THE UNITED STATES.

(a) ALLOWANCE OF PUERTO RICAN AND POSSESSION TAX CREDIT.—Section 33 (relating to taxes of foreign countries and possessions of the United States) is amended to read as follows:

26 USC 33.

"SEC. 33. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF THE UNITED STATES; POSSESSION TAX CREDIT.

"(a) FOREIGN TAX CREDIT.—The amount of taxes imposed by foreign countries and possessions of the United States shall be allowed as a credit against the tax imposed by this chapter to the extent provided in section 901.

"(b) SECTION 936 CREDIT.—In the case of a domestic corporation, the amount provided by section 936 (relating to Puerto Rico and possession tax credit) shall be allowed as a credit against the tax imposed by this chapter."

Infra.

(b) RULES ON POSSESSION TAX CREDIT.—Subpart D of part III of subchapter N of chapter 1 (relating to possessions of the United States) is amended by adding at the end thereof the following new section:

"SEC. 936. PUERTO RICO AND POSSESSION TAX CREDIT.

26 USC 936.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in the case of a domestic corporation which elects the application of this section, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to taxable income, from sources without the United States, from the active conduct of a trade or business within a possession of the United States, and from qualified possession source investment income, if the conditions of both subparagraph (A) and subparagraph (B) are satisfied:

"(A) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States (determined without regard to section 904(f)) ; and

Ante, p. 1624.

“(B) **TRADE OR BUSINESS.**—If 50 percent or more of the gross income of such domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

“(2) **CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.**—The credit provided by paragraph (1) shall not be allowed against the tax imposed by—

“(A) section 56 (relating to minimum tax),

“(B) section 531 (relating to the tax on accumulated earnings),

“(C) section 541 (relating to personal holding company tax),

“(D) section 1333 (relating to war loss recoveries), or

“(E) section 1351 (relating to recoveries of foreign expropriation losses).

“(b) **AMOUNTS RECEIVED IN UNITED STATES.**—In determining taxable income for purposes of subsection (a), there shall not be taken into account as income from sources without the United States any gross income which was received by such domestic corporation within the United States, whether derived from sources within or without the United States.

“(c) **TREATMENT OF CERTAIN FOREIGN TAXES.**—For purposes of this title, any tax of a foreign country or a possession of the United States which is paid or accrued with respect to taxable income which is taken into account in computing the credit under subsection (a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amounts so paid or accrued.

“(d) **DEFINITIONS.**—For purposes of this section—

“(1) **POSSESSION.**—The term ‘possession of the United States’ includes the Commonwealth of Puerto Rico, but does not include the Virgin Islands of the United States.

“(2) **QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.**—The term ‘qualified possession source investment income’ means gross income which—

“(A) is from sources within a possession of the United States in which a trade or business is actively conducted, and

“(B) the taxpayer establishes to the satisfaction of the Secretary is attributable to the investment in such possession (for use therein) of funds derived from the active conduct of a trade or business in such possession, or from such investment,

less the deductions properly apportioned or allocated thereto.

“(e) **ELECTION.**—

“(1) **PERIOD OF ELECTION.**—The election provided in subsection (a) shall be made at such time and in such manner as the Secretary may by regulations prescribe. Any such election shall apply to the first taxable year for which such election was made and for which the domestic corporation satisfied the conditions of subparagraphs (A) and (B) of subsection (a)(1) and for each taxable year thereafter until such election is revoked by the domestic corporation under paragraph (2). If any such election is revoked by the domestic corporation under paragraph (2), such domestic corporation may make a subsequent election under subsection (a) for any taxable year thereafter for which such domestic cor-

poration satisfies the conditions of subparagraphs (A) and (B) of subsection (a)(1) and any such subsequent election shall remain in effect until revoked by such domestic corporation under paragraph (2).

“(2) REVOCATION.—An election under subsection (a)—

“(A) may be revoked for any taxable year beginning before the expiration of the 9th taxable year following the taxable year for which such election first applies only with the consent of the Secretary; and

“(B) may be revoked for any taxable year beginning after the expiration of such 9th taxable year without the consent of the Secretary.

“(f) DISC OR FORMER DISC CORPORATION INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to a corporation for a taxable year for which it is a DISC or former DISC (as defined in section 992(a)) or in which it owns at any time stock in a DISC or former DISC.

“(g) EXCEPTION TO ACCUMULATED EARNINGS TAX.—

“(1) For purposes of section 535, the term ‘accumulated taxable income’ shall not include taxable income entitled to the credit under subsection (a).

“Accumulated taxable income.”

“(2) For purposes of section 537, the term ‘reasonable needs of the business’ includes assets which produce income eligible for the credit under subsection (a).”

“Reasonable needs of the business.”

(c) AMENDMENTS OF SECTION 931.—

(1) Subsection (a) of section 931 (relating to general rule in the case of income from sources within possessions of the United States) is amended to read as follows:

26 USC 931.

“(a) GENERAL RULE.—In the case of individual citizens of the United States, gross income means only gross income from sources within the United States if the conditions of both paragraph (1) and paragraph (2) are satisfied:

“(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such citizen (computed without the benefit of this section) for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

“(2) TRADE OR BUSINESS.—If 50 percent or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.”.

(2) Subsection (c) of section 931 (defining the term “possession”) is amended to read as follows:

“(c) DEFINITION.—For purposes of this section, the term ‘possession of the United States’ does not include the Commonwealth of Puerto Rico, the Virgin Islands of the United States, or Guam.”.

(3) Subsections (d), (e), and (f) of section 931 are each amended by striking out “persons” each place it appears and inserting in lieu thereof “a citizen of the United States”.

(d) AMENDMENTS OF SECTION 901.—

(1) Section 901(d) (relating to certain corporations treated as foreign corporations) is amended to read as follows:

26 USC 901.

“(d) TREATMENT OF DIVIDENDS FROM A DISC OR FORMER DISC.—For purposes of this subpart, dividends from a DISC or former DISC

(as defined in section 992(a)) shall be treated as dividends from a foreign corporation to the extent such dividends are treated under part I as income from sources without the United States.”.

26 USC 901.

Ante, p. 1624.

(2) Section 901 (relating to taxes of foreign countries and possessions of the United States) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection:

“(g) CERTAIN TAXES PAID WITH RESPECT TO DISTRIBUTIONS FROM POSSESSIONS CORPORATIONS.—

“(1) IN GENERAL.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation, to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued.

Ante, p. 1643.

“(2) POSSESSIONS CORPORATION.—For purposes of paragraph (1), a corporation shall be treated as a possessions corporation for any period during which an election under section 936 applied to such corporation or during which section 931 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) applied to such corporation.”

26 USC 904.

Ante, p. 1629.

(e) AMENDMENT OF SECTION 904(b).—Section 904(b) (as amended by sections 1031 and 1034(a) of this Act) is amended by adding at the end thereof the following new paragraph:

“(4) COORDINATION WITH SECTION 936.—For purposes of subsection (a), in the case of a corporation, the taxable income shall not include any portion thereof taken into account for purposes of the credit (if any) allowed by section 936.”

26 USC 243.

(f) DIVIDENDS RECEIVED DEDUCTION ALLOWED.—

(1) Section 243(b)(1) (defining qualifying dividends) is amended by adding “either” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof a comma and “or”, and by adding at the end thereof the following new subparagraph:

“(C) such dividends are paid by a corporation with respect to which an election under section 936 is in effect for the taxable year in which such dividends are paid.”.

26 USC 243.

(2) Section 243(b)(5) (defining affiliated group) is amended by inserting “, 1504(b)(4),” immediately after “1504(b)(2)”.

26 USC 246.

(3) Section 246(a) (relating to dividends from certain corporations) is amended to read as follows:

“(a) DEDUCTION NOT ALLOWED FOR DIVIDENDS FROM CERTAIN CORPORATIONS.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).”

26 USC 1504.

(g) CONSOLIDATED RETURN TREATMENT.—Section 1504(b)(4) (defining includible corporation) is amended to read as follows:

“(4) Corporations with respect to which an election under section 936 (relating to possession tax credit) is in effect for the taxable year.”.

(h) CONFORMING AMENDMENTS.—

(1) Section 48(a)(2)(B)(vii) (relating to definition of section 38 property) is amended by striking out “(other than a corporation entitled to the benefits of section 931 or 934(b))” and inserting in lieu thereof the following: “(other than a corporation which has an election in effect under section 936 or which is entitled to the benefits of section 934(b))”.

26 USC 48.

(2) Paragraph (2) of subsection 116(b) (relating to certain dividends excluded from partial exclusion of dividends received by individuals) is amended to read as follows:

26 USC 116.

“(2) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers’ cooperative associations); or”.

(3) Section 861(a)(2)(A) (relating to income from sources within the United States) is amended by striking out “other than a corporation entitled to the benefits of section 931,” and inserting in lieu thereof the following: “other than a corporation which has an election in effect under section 936.”

26 USC 861.

(4) Section 6091(b)(2)(B)(ii) (relating to place of filing for corporations) is amended by striking out “section 931 (relating to income from sources within possessions of the United States),” and inserting in lieu thereof the following: “section 936 (relating to possession tax credit).”.

Post, p. 1648.

(i) EFFECTIVE DATE.—

26 USC 33 note.

(1) Except as provided by paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1975, except that “qualified possession source investment income” as defined in section 936(d)(2) of the Internal Revenue Code of 1954 shall include income from any source outside the United States if the taxpayer establishes to the satisfaction of the Secretary of the Treasury or his delegate that the income from such sources was earned before October 1, 1976.

Ante, p. 1643.

(2) The amendment made by subsection (d)(2) shall not apply to any tax imposed by a possession of the United States with respect to the complete liquidation occurring before January 1, 1979, of a corporation to the extent that such tax is attributable to earnings and profits accumulated by such corporation during periods ending before January 1, 1976.

SEC. 1052. WESTERN HEMISPHERE TRADE CORPORATIONS.

(a) PHASEOUT OF SPECIAL DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPORATIONS.—Section 922 (special deduction for Western Hemisphere trade corporations) is amended by adding at the end thereof the following new subsection:

26 USC 922.

“(b) PHASEOUT OF DEDUCTION.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1980, the percent specified in subsection (a)(2)(A) shall be (in lieu of 14 percent) the percent specified in the following table:

“For a taxable year beginning in—	The percentage shall be—
1976 -----	11
1977 -----	8
1978 -----	5
1979 -----	2”.

26 USC 921, 922. (b) **REPEAL OF WESTERN HEMISPHERE TRADE CORPORATION DEDUCTION FOR TAXABLE YEARS BEGINNING AFTER 1979.**—Subpart C of part III of subchapter N of chapter 1 (relating to Western Hemisphere trade corporations) is hereby repealed.

26 USC 922. (c) **CONFORMING AMENDMENTS.**—

26 USC 170. (1) The first sentence of section 922 (relating to special deduction) is amended by striking out “In the case of” and inserting in lieu thereof the following:

26 USC 170. “(a) **GENERAL RULE.**—In the case of”.

26 USC 172. (2) Section 170(b)(2) (relating to percentage limitations on charitable contributions in the case of corporations) is amended by adding “and” at the end of subparagraph (C), by striking out subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

26 USC 172. (3) Section 172(d) (relating to modifications for purposes of the net operating loss deduction) is amended by striking out paragraph (5) and by redesignating paragraph (6) as paragraph (5).

26 USC 907. (4) Subsection (g) of section 907 is hereby repealed.

26 USC 1503. (5) Section 1503 (relating to computation and payment of tax in the case of consolidated returns) is amended by striking out subsection (b) and by striking out “(a) **GENERAL RULE.**—”.

26 USC 6091. (6) Section 6091(b)(2)(B)(ii) (relating to place for filing returns of corporations) is amended to read as follows:

Ante, p. 1643. “(ii) corporations which claim the benefits of section 936 (relating to possession tax credit), and”.

26 USC 922 note. (7) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart C.

26 USC 922 note. (d) **EFFECTIVE DATES.**—The amendments made by subsection (a) and paragraph (1) of subsection (c) shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsection (b) and by subsection (c) (other than paragraph (1)) shall apply with respect to taxable years beginning after December 31, 1979.

SEC. 1053. **REPEAL OF PROVISIONS RELATING TO CHINA TRADE ACT CORPORATIONS.**

26 USC 941. (a) **PHASEOUT OF SECTION 941.**—Section 941 (relating to special deductions for China Trade Act corporations) is amended by adding the following new subsection:

“(d) **PHASEOUT OF DEDUCTION.**—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1978, the amount of the special deduction under subsection (a) (determined without regard to this subsection) shall be reduced by the percentage reduction specified in the following table:

“For a taxable year beginning in—	The percentage reduction shall be—
1976 -----	33½
1977 -----	66½.”

26 USC 943. (b) **PHASEOUT OF SECTION 943.**—Section 943 (relating to the exclusion of certain dividends to residents of Formosa or Hong Kong) is amended by adding at the end thereof the following new sentence: “In the case of a taxable year beginning after December 31, 1975, and before January 1, 1978, the amount of the distributions which are excludable from gross income under this section (determined without

regard to this sentence) shall be reduced by the percentage reduction specified in the following table:

"For a taxable year beginning in—	The percentage reduction shall be—	
1976 -----	33½	
1977 -----	66%."	
(c) REPEAL.—Subpart E of part III of subchapter N of chapter 1 (relating to China Trade Act corporations) is hereby repealed.		26 USC 941, 942, 943.
(d) TECHNICAL AND CONFORMING AMENDMENTS.—		
(1) Section 116(b) is amended by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.		26 USC 116.
(2) Section 1504(b) is amended by striking out paragraph (5).		26 USC 1504.
(3) Section 6072 is amended by striking out subsection (e).		26 USC 6072.
(4) Section 6091(b)(2)(B)(ii) is amended by striking out the comma after "trade corporations)" and inserting in lieu thereof "or" and by striking out "or section 941 (relating to the special deduction for China Trade Act corporations),".		26 USC 6091.
(5) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart E.		
(e) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsections (c) and (d) shall apply with respect to taxable years beginning after December 31, 1977.		26 USC 941 note.

PART VI—DENIAL OF CERTAIN TAX BENEFITS FOR COOPERATION WITH OR PARTICIPATION IN INTERNATIONAL BOYCOTTS AND IN CONNECTION WITH THE PAYMENT OF CERTAIN BRIBES

SEC. 1061. DENIAL OF FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subpart A of part III of subchapter N (relating to income from sources without the United States) is amended by adding at the end thereof the following new section:

"SEC. 908. REDUCTION OF CREDIT FOR PARTICIPATION IN OR COOPERATION WITH AN INTERNATIONAL BOYCOTT.

"(a) IN GENERAL.—If a person, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes such person, participates in or cooperates with an international boycott during the taxable year (within the meaning of section 999(b)), the amount of the credit allowable under section 901 to such person, or under section 902 or 960 to United States shareholders of such person, for foreign taxes paid during the taxable year shall be reduced by an amount equal to the product of—

"(1) the amount of the credit which, but for this section, would be allowed under section 901 for the taxable year, multiplied by

"(2) the international boycott factor (determined under section 999).

"(b) APPLICATION WITH SECTIONS 275(a)(4) AND 78.—Section 275(a)(4) and section 78 shall not apply to any amount of taxes denied credit under subsection (a)."

Post, p. 1650.

Ante, p. 1626.

(b) **CLERICAL AMENDMENT.**—The table of sections for such subpart is amended by adding at the end thereof the following new item:

“Sec. 908. Reduction of credit for participation in or cooperation with an international boycott.”

SEC. 1062. DENIAL OF DEFERRAL OF INTERNATIONAL BOYCOTT AMOUNTS.

26 USC 952.

(a) **DENIAL OF DEFERRAL.**—Section 952(a) (relating to general definition of subpart F income) is amended—

(1) by striking out “and” at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma, and the word “and”, and

(3) by adding at the end thereof the following new paragraph:

“(3) an amount equal to the product of—

“(A) the income of such corporation other than income which—

“(i) is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph), or

“(ii) is described in subsection (b),

multiplied by

“(B) the international boycott factor (as determined under section 999).”

Infra.

SEC. 1063. DENIAL OF DISC BENEFITS.

26 USC 995.

(a) **INTERNATIONAL BOYCOTT ACTIVITY.**—Subparagraph (D) of section 995(b)(1) (relating to distributions in qualified years) is amended to read as follows:

“(D) the sum of—

“(i) one-half of the excess of the taxable income of the DISC for the taxable year, before reduction for any distributions during the year, over the sum of the amounts deemed distributed for the taxable year under subparagraphs (A), (B), and (C), and

“(ii) an amount equal to the amount determined under clause (i) multiplied by the international boycott factor determined under section 999, and”.

SEC. 1064. DETERMINATIONS AS TO PARTICIPATION IN OR COOPERATION WITH AN INTERNATIONAL BOYCOTT.

(a) **IN GENERAL.**—Subchapter N of chapter 1 (relating to tax based on income from sources within or without the United States) is amended by adding at the end thereof the following new part:

“PART V—INTERNATIONAL BOYCOTT DETERMINATIONS

“Sec. 999. Reports by taxpayers: determinations.

26 USC 999.

“SEC. 999. REPORTS BY TAXPAYERS; DETERMINATIONS.

“(a) **INTERNATIONAL BOYCOTT REPORTS BY TAXPAYERS.**—

“(1) **REPORT REQUIRED.**—If any person, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes that person, has operations in, or related to—

“(A) a country (or with the government, a company, or a national of a country) which is on the list maintained by the Secretary under paragraph (3), or

“(B) any other country (or with the government, a company, or a national of that country) in which such person or such member had operations during the taxable year if such person (or, if such person is a foreign corporation, any United States shareholder of that corporation) knows or has reason to know that participation in or cooperation with an international boycott is required as a condition of doing business within such country or with such government, company, or national,

that person or shareholder (within the meaning of section 951(b)) shall report such operations to the Secretary at such time and in such manner as the Secretary prescribes, except that in the case of a foreign corporation such report shall be required only of a United States shareholder (within the meaning of such section) of such corporation.

26 USC 951.

“(2) PARTICIPATION AND COOPERATION; REQUEST THEREFOR.—A taxpayer shall report whether he, a foreign corporation of which he is a United States shareholder, or any member of a controlled group which includes the taxpayer or such foreign corporation has participated in or cooperated with an international boycott at any time during the taxable year, or has been requested to participate in or cooperate with such a boycott, and, if so, the nature of any operation in connection with which there was participation in or cooperation with such boycott (or there was a request to participate or cooperate).

“(3) LIST TO BE MAINTAINED.—The Secretary shall maintain and publish not less frequently than quarterly a current list of countries which require or may require participation in or cooperation with an international boycott (within the meaning of subsection (b) (3)).

“(b) PARTICIPATION IN OR COOPERATION WITH AN INTERNATIONAL BOYCOTT.—

“(1) GENERAL RULE.—If the person or a member of a controlled group (within the meaning of section 993(a) (3)) which includes the person participates in or cooperates with an international boycott in the taxable year, all operations of the taxpayer or such group in that country and in any other country which requires participation in or cooperation with the boycott as a condition of doing business within that country, or with the government, a company, or a national of that country, shall be treated as operations in connection with which such participation of cooperation occurred, except to the extent that the person can clearly demonstrate that a particular operation is a clearly separate and identifiable operation in connection with which there was no participation in or cooperation with an international boycott.

“(2) SPECIAL RULE.—

“(A) NONBOYCOTT OPERATIONS.—A clearly separate and identifiable operation of a person, or of a member of the controlled group (within the meaning of section 993(a) (3)) which includes that person, in or related to any country within the group of countries referred to in paragraph (1) shall not be treated as an operation in or related to a group of countries associated in carrying out an international boycott if the person can clearly demonstrate that he, or that such member, did not participate in or cooperate with the international boycott in connection with that operation.

“(B) SEPARATE AND IDENTIFIABLE OPERATIONS.—A taxpayer may show that different operations within the same country, or operations in different countries, are clearly separate and identifiable operations.

“(3) DEFINITION OF BOYCOTT PARTICIPATION AND COOPERATION.—For purposes of this section, a person participates in or cooperates with an international boycott if he agrees—

“(A) as a condition of doing business directly or indirectly within a country or with the government, a company, or a national of a country—

“(i) to refrain from doing business with or in a country which is the object of the boycott or with the government, companies, or nationals of that country;

“(ii) to refrain from doing business with any United States person engaged in trade in a country which is the object of the boycott or with the government, companies, or nationals of that country;

“(iii) to refrain from doing business with any company whose ownership or management is made up, all or in part, of individuals of a particular nationality, race, or religion, or to remove (or refrain from selecting) corporate directors who are individuals of a particular nationality, race, or religion; or

“(iv) to refrain from employing individuals of a particular nationality, race, or religion; or

“(B) as a condition of the sale of a product to the government, a company, or a national of a country, to refrain from shipping or insuring that product on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott (within the meaning of subparagraph (A)).

“(4) COMPLIANCE WITH CERTAIN LAWS.—This section shall not apply to any agreement by a person (or such member)—

“(A) to meet requirements imposed by a foreign country with respect to an international boycott if United States law or regulations, or an Executive Order, sanctions participation in, or cooperation with, that international boycott,

“(B) to comply with a prohibition on the importation of goods produced in whole or in part in any country which is the object of an international boycott, or

“(C) to comply with a prohibition imposed by a country on the exportation of products obtained in such country to any country which is the object of an international boycott.

“(c) INTERNATIONAL BOYCOTT FACTOR.—

“(1) INTERNATIONAL BOYCOTT FACTOR.—For purposes of sections 908(a), 952(a)(3), and 995(b)(3), the international boycott factor is a fraction, determined under regulations prescribed by the Secretary, the numerator of which reflects the world-wide operations of a person (or, in the case of a controlled group (within the meaning of section 993(a)(3)) which includes that person, of the group) which are operations in or related to a group of countries associated in carrying out an international boycott in or with which that person or a member of that controlled group has participated or cooperated in the taxable year, and the denominator of which reflects the world-wide operations of that person or group.

Ante, pp. 1649, 1650.

Post, p. 1655.

26 USC 993.

“(2) SPECIFICALLY ATTRIBUTABLE TAXES AND INCOME.—If the taxpayer clearly demonstrates that the foreign taxes paid and income earned for the taxable year are attributable to specific operations, then, in lieu of applying the international boycott factor for such taxable year, the amount of the credit disallowed under section 908(a), the addition to subpart F income under section 952(a) (3), and the amount of deemed distribution under section 995(b) (1) (D) (ii) for the taxable year, if any, shall be the amount specifically attributable to the operations in which there was participation in or cooperation with an international boycott under section 999(b) (1).

Ante, p. 1649.

Ante, p. 1650.

Ante, p. 1650.

“(3) WORLD-WIDE OPERATIONS.—For purposes of this subsection, the term ‘world-wide operations’ means operations in or related to countries other than the United States.

“(d) DETERMINATIONS WITH RESPECT TO PARTICULAR OPERATIONS.—Upon a request made by the taxpayer, the Secretary shall issue a determination with respect to whether a particular operation of a person, or of a member of a controlled group which includes that person, constitutes participation in or cooperation with an international boycott. The Secretary may issue such a determination in advance of such operation in cases which are of such a nature that an advance determination is possible and appropriate under the circumstances. If the request is made before the operation is commenced, or before the end of a taxable year in which the operation is carried out, the Secretary may decline to issue such a determination before close of the taxable year.

“(e) PARTICIPATION OR COOPERATION BY RELATED PERSONS.—If a person controls (within the meaning of section 304(c)) a corporation—

“(1) participation in or cooperation with an international boycott by such corporation shall be presumed to be such participation or cooperation by such person, and

“(2) participation in or cooperation with such a boycott by such person shall be presumed to be such participation or cooperation by such corporation.

“(f) WILLFUL FAILURE TO REPORT.—Any person (within the meaning of section 6671 (b)) required to report under this section who willfully fails to make such report shall, in addition to other penalties provided by law, be fined not more than \$25,000, imprisoned for not more than one year, or both.”.

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter is amended by adding at the end thereof the following new item:

“Part V. International boycott determinations.”

SEC. 1065. FOREIGN BRIBES.

(a) DENIAL OF DEFERRAL.—

(1) CONTROLLED FOREIGN CORPORATIONS.—Section 952(a) (relating to general definition of subpart F income) is amended—

26 USC 952.

(A) by striking out “and” at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma and the word “and”, and

(C) by adding at the end thereof the following new paragraph:

“(4) the sum of the amounts of any illegal bribes, kickbacks, or other payments (within the meaning of section 162(c)) paid by or on behalf of the corporation during the taxable year of

the corporation directly or indirectly to an official, employee, or agent in fact of a government.”

26 USC 995.

(2) DISC's.—Subparagraph (D) of section 995(b)(1) (relating to distributions in qualified years) is amended—

(A) by striking out “and” at the end of clause (i),

(B) by adding at the end thereof the following new clause:

“(iii) any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) paid by or on behalf of the DISC directly or indirectly to an official, employee, or agent in fact of a government, and”.

26 USC 964.

(b) BRIBES NOT TO REDUCE FOREIGN EARNINGS AND PROFITS.—Section 964(a) (relating to earnings and profits of foreign corporations) is amended by adding at the end thereof the following sentence: “In determining such earnings and profits, or the deficit in such earnings and profits, the amount of any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) shall not be taken into account to decrease such earnings and profits or to increase such deficit.”.

SEC. 1066. EFFECTIVE DATES.

26 USC 908
note.

(a) INTERNATIONAL BOYCOTTS.—

(1) GENERAL RULE.—The amendments made by this part (other than by section 1065) apply to participation in or cooperation with an international boycott more than 30 days after the date of enactment of this Act.

(2) EXISTING CONTRACTS.—In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the amendments made by this part (other than by section 1065) apply to such participation or cooperation after December 31, 1977.

26 USC 952
note.

(b) FOREIGN BRIBES.—The amendments made by section 1065 apply to payments described in section 162(c) of the Internal Revenue Code of 1954 made more than 30 days after the date of enactment of this Act.

SEC. 1067. REPORTS BY SECRETARY.

26 USC 999
note.

(a) REPORTS TO THE CONGRESS.—As soon after the close of each calendar year as the data become available, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth, for that calendar year—

(1) the number of reports filed under section 999(a) of the Internal Revenue Code of 1954 for taxable years ending with or within such taxable year,

(2) the number of such reports on which the taxpayer indicated international boycott participation or cooperation (within the meaning of section 999(b)(3) of such Code), and

(3) a detailed description of the manner in which the provisions of such Code relating to international boycott activity have been administered during such calendar year.

(b) INITIAL LIST.—The Secretary of the Treasury shall publish an initial list of those countries which may require participation in or cooperation with an international boycott as a condition of doing business within such country, or with the government, a company, or a national of such country (within the meaning of section 999(b) of the Internal Revenue Code of 1954) within 30 days after the enactment of this Act.

Ante, p. 1650.

TITLE XI—AMENDMENTS AFFECTING DISC

SEC. 1101. AMENDMENTS AFFECTING DISC.

(a) IN GENERAL.—Section 995 (relating to taxation of DISC 26 USC 995. income to shareholders) is amended—

(1) in paragraph (1) of subsection (b) thereof, by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively, by striking out “and (C)” in subparagraph (F) (as so redesignated) and inserting in lieu thereof “(C), (D), and (E)”, and by inserting after subparagraph (C) the following new subparagraphs:

“(D) 50 percent of the taxable income of the DISC for the taxable year attributable to military property,

“(E) the taxable income for the taxable year attributable to base period export gross receipts (as defined in subsection (e));”;

(2) in paragraph (2) (B) of subsection (b) thereof, by striking out “more than the number” and inserting in lieu thereof “more than twice the number”;

(3) by adding at the end of subsection (b) thereof the following new paragraph:

“(3) TAXABLE INCOME ATTRIBUTABLE TO MILITARY PROPERTY.—

“(A) IN GENERAL.—For purposes of paragraph (1) (D), taxable income of a DISC for the taxable year attributable to military property shall be determined by only taking into account—

“(i) the gross income of the DISC for the taxable year which is attributable to military property, and

“(ii) the deductions which are properly apportioned or allocated to such income.

“(B) MILITARY PROPERTY.—For purposes of subparagraph (A), the term ‘military property’ means any property which is an arm, ammunition, or implement of war designated in the munitions list published pursuant to the Military Security Act of 1954 (22 U.S.C. 1934).”; and

(4) by adding at the end thereof the following new subsections:

“(e) DEFINITIONS AND SPECIAL RULES RELATING TO COMPUTATION OF TAXABLE INCOME ATTRIBUTABLE TO BASE PERIOD EXPORT GROSS RECEIPTS.—

“(1) TAXABLE INCOME ATTRIBUTABLE TO BASE PERIOD EXPORT GROSS RECEIPTS.—For purposes of this section, the taxable income attributable to base period export gross receipts shall be an amount equal to that portion of the adjusted taxable income of a DISC which—

“(A) the amount of the adjusted base period export gross receipts, bears to

“(B) the amount of the export gross receipts of the DISC for the taxable year.

“(2) ADJUSTED TAXABLE INCOME.—For purposes of this section, the term ‘adjusted taxable income’ means the income of a DISC for the taxable year, reduced by the amounts described in subparagraphs (A), (B), (C), and (D) of paragraph (1) of subsection (b).

26 USC 993.

“(3) ADJUSTED BASE PERIOD EXPORT GROSS RECEIPTS.—For purposes of this section, the term ‘adjusted base period export gross receipts’ means 67 percent of the average of the export gross receipts of the DISC for taxable years during the base period (as defined in paragraph (5)). For purposes of the preceding sentence, if any property would not qualify during the taxable year as export property by reason of section 993(c)(2), gross receipts from such property shall be excluded from export gross receipts during the taxable years in the base period.

“(4) EXPORT GROSS RECEIPTS.—For purposes of this section, the term ‘export gross receipts’ means—

“(A) qualified export receipts described in subparagraphs (A), (B), (C), (G), and (H) of section 993(a)(1), reduced by

“(B) 50 percent of such qualified export receipts which are attributable to military property (as defined in subsection (b)(3)(B)).

“(5) BASE PERIOD.—For purposes of paragraph (3)—

“(A) for any taxable year beginning before 1980, the base period shall be the taxable years beginning in 1972, 1973, 1974, and 1975, and

“(B) for any taxable year beginning in any calendar year after 1979, the base period shall be the taxable years beginning in the fourth, fifth, sixth, and seventh calendar years preceding such calendar year.

“(6) NO BASE PERIOD YEAR.—If a DISC did not have a taxable year beginning in a calendar year specified in paragraph (5), then, for purposes of computing the adjusted base period export gross receipts, such DISC is deemed to have a taxable year and export gross receipts of zero for that year.

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“(7) SHORT TAXABLE YEAR.—The Secretary shall prescribe such regulations as he deems necessary with respect to a short taxable year for purposes of computing base period export gross receipts of a DISC, or a short taxable year in which deemed distributions (as described in subsection (b)) are made, including the circumstances under which the short taxable year shall be annualized, and the proper method of annualization.

“(8) CONTROLLED GROUP.—If more than one member of a controlled group (as defined in section 993(a)(3)) for the taxable year qualifies as a DISC, then subsection (b)(1)(E), this subsection, and subsection (f) shall each be applied in a manner provided by regulations prescribed by the Secretary by aggregating the export gross receipts and taxable income of such DISCs for the taxable year and by aggregating the export gross receipts of such DISCs for each taxable year in the base period.

“(9) SPECIAL RULE WHERE THE OWNERSHIP OF DISC STOCK AND THE TRADE OR BUSINESS GIVING RISE TO EXPORT GROSS RECEIPTS OF THE DISC ARE SEPARATED.—

“(A) IN GENERAL.—If, at any time after the beginning of the base period, there has been a separation of the ownership of the stock in the DISC from the ownership of the trade or business which (during the base period) produced the export gross receipts of the DISC, then the persons who own the trade or business during the taxable year shall be treated as having had additional export gross receipts during the base period attributable to such trade or business.

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

“(i) where the stock in the DISC and the trade or business are owned throughout the taxable year by members of the same controlled group, and

“(ii) to the extent that the taxpayer's ownership of the stock in the DISC for the taxable year is proportionate to his ownership during the taxable year of the trade or business.

“(10) DISC BASE PERIOD ATTRIBUTED THROUGH SHAREHOLDERS IN CERTAIN CASES.—

“(A) IN GENERAL.—If—

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“(i) any person owns 5 percent or more of the stock of a DISC (hereinafter in this paragraph referred to as ‘first DISC’), and

“(ii) such person at any time during the base period of the first DISC owned 5 percent or more of the stock of a second DISC,

then, to the extent provided in such regulations as the Secretary may prescribe to prevent circumvention of the application of subsection (b)(1)(E), an amount equal to such shareholder's share of the base period export gross receipts of the second DISC shall be added to the base period export gross receipts of the first DISC.

“(B) OWNERSHIP OF STOCK.—For purposes of subparagraph (A), the ownership of stock shall be determined under section 318.

26 USC 318.

“(f) SMALL DISCS.—

“(1) ADJUSTED TAXABLE INCOME OF \$100,000 OR LESS.—If a DISC has adjusted taxable income of \$100,000 or less for a taxable year, subsection (b)(1)(E) shall not apply with respect to such year.

“(2) SPECIAL RULE.—If a DISC has adjusted taxable income of more than \$100,000 for a taxable year, then the amount taken into account under subsection (b)(1)(E) shall be deemed to be an amount equal to the excess (if any) of—

“(A) the amount which would (but for this paragraph) be taken into account under subsection (b)(1)(E), over

“(B) twice the excess (if any) of \$150,000 over the adjusted taxable income.

“(g) CERTAIN TRANSFERS OF DISC ASSETS.—If—

“(1) a corporation owns, directly or indirectly, all of the stock of a subsidiary and a DISC,

“(2) the subsidiary has been engaged in the active conduct of a trade or business (within the meaning of section 355(b)) throughout the 5-year period ending on the date of the transfer and continues to be so engaged thereafter, and

“(3) during the taxable year of the subsidiary in which its stock is transferred and its preceding taxable year, such trade or business gives rise to qualified export receipts of the subsidiary and the DISC,

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then, under such terms and conditions as the Secretary by regulations shall prescribe, transfers of assets, stock, or both, will be deemed to be a reorganization within the meaning of section 368, a transaction to which section 355 applies, an exchange of stock to which section 351 applies, or a combination thereof. The preceding sentence shall apply only to the extent that the transfer or transfers involved are for the purpose of preventing the separation of the ownership of the stock in

the DISC from the ownership of the trade or business which (during the base period) produced the export gross receipts of the DISC.”

26 USC 993.

(b) AMENDMENT OF SECTION 993(c)(2).—Section 993(c)(2) (relating to property excluded from export property) is amended—

(1) by striking out “or” at the end of subparagraph (B), and

(2) by striking out “under section 611” in subparagraph (C) and inserting in lieu thereof “under section 613 or 613A”.

(c) AMENDMENTS TO SECTION 993(d).—Section 993(d) (relating to definition of producer’s loans) is amended—

(1) by inserting in paragraph (1)(C) immediately after “export property”, the following: “determined without regard to subparagraph (C) or (D) of subsection (c)(2),”.

(2) by inserting in paragraph (2) immediately after “of property which would be export property” the following: “(determined without regard to subparagraph (C) or (D) of subsection (c)(2))”.

(d) RECAPTURE OF ACCUMULATED DISC INCOME ON DISPOSITION OF STOCK IN A DISC OR FORMER DISC.—

26 USC 995.

(1) Section 995(c) is amended to read as follows:

“(c) GAIN ON DISPOSITION OF STOCK IN A DISC.—

“(1) IN GENERAL.—If—

“(A) a shareholder disposes of stock in a DISC or former DISC any gain recognized on such disposition shall be included in gross income as a dividend to the extent provided in paragraph (2),

“(B) stock of a DISC or former DISC is disposed of in a transaction in which the separate corporate existence of the DISC or former DISC is terminated other than by a mere change in place of organization, however effected, any gain realized on the disposition of such stock in the transaction shall be recognized notwithstanding any other provision of this title to the extent provided in paragraph (2) and to the extent so recognized shall be included in gross income as a dividend, or

“(C) a shareholder distributes, sells, or exchanges stock in a DISC or former DISC in a transaction to which section 311, 336, or 337 applies, then an amount equal to the excess of the fair market value of such stock over its adjusted basis in the hands of the shareholder shall, notwithstanding any provision of this title, be included in gross income of the shareholder as a dividend to the extent provided in paragraph (2).

“(2) AMOUNT INCLUDED.—The amounts described in paragraph (1) shall be included in gross income as a dividend to the extent of the accumulated DISC income of the DISC or former DISC which is attributable to the stock disposed of and which was accumulated in taxable years of such corporation during the period or periods the stock disposed of was held by the shareholder which disposed of such stock.”

26 USC 751.

(2) INTEREST IN A PARTNERSHIP HOLDING STOCK IN A DISC.—The last sentence of section 751(c) (relating to unrealized receivables) is amended—

(A) by striking out “(as defined in section 617(f)(2))”, and inserting in lieu thereof “(as defined in section 617(f)(2), stock in a DISC (as described in section 992(a)),” and

(B) by striking out “617(d)(1), 1245(a),” and inserting in lieu thereof “617(d)(1), 995(c), 1245(a),”.

(e) **RULES FOR ALLOCATING DISTRIBUTIONS MADE TO MEET QUALIFICATION REQUIREMENTS.**—Paragraph (2) of section 996(a) (relating to rules for actual distributions and certain deemed distributions) is amended by adding at the end thereof the following new sentence: “In the case of any amount of any actual distribution made pursuant to section 992(c) which is required to satisfy the condition of section 992(a) (1) (A), the preceding sentence shall apply to one-half of such amount, and paragraph (1) shall apply to the remaining one-half of such amount.” 26 USC 996.

(f) **AMENDMENT OF SECTION 603(b) OF TAX REDUCTION ACT OF 1975.**—Section 603(b) of the Tax Reduction Act of 1975 (relating to effective date) is amended to read as follows: 26 USC 993 note.

“(b) **EFFECTIVE DATES.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

“(2) **BINDING CONTRACT.**—The amendments made by subsection (a) shall not apply to sales, exchanges, and other dispositions made after March 18, 1975, but before March 19, 1980, if such sales, exchanges, and other dispositions are made pursuant to a fixed contract. The term ‘fixed contract’ means a contract which was, on March 18, 1975, and is at all times thereafter binding on the DISC or a taxpayer which was a member of the same controlled group (within the meaning of section 993(a) (3) of the Internal Revenue Code of 1954) as the DISC, which was entered into after the date on which the DISC qualified as a DISC and the DISC and the taxpayer became members of the same controlled group, and under which the price and quantity of the products sold, exchanged, or otherwise disposed of cannot be increased.” “Fixed contract.”

(g) **EFFECTIVE DATES.**—

(1) **FOR SUBSECTIONS (a) AND (e).**—The amendments made by subsections (a) and (e) shall apply to taxable years beginning after December 31, 1975. 26 USC 995 note.

(2) **FOR SUBSECTION (b).**—The amendments made by subsection (b) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date. 26 USC 993 note.

(3) **FOR SUBSECTIONS (c) AND (f).**—The amendments made by subsections (c) and (f) shall apply to taxable years ending after March 18, 1975. 26 USC 993 note.

(4) **FOR SUBSECTION (d).**—The amendments made by subsection (d) shall apply to sales, exchanges, or other dispositions after December 31, 1975, in taxable years ending after such date. 26 USC 995 note.

(5) **PRORATION OF BASE PERIOD IN CASE OF FIXED CONTRACTS.**—For purposes of determining adjusted base period export gross receipts (under section 995(e) (3) of the Internal Revenue Code of 1954, as amended by this section), if any DISC has export gross receipts from export property by reason of paragraph (2) of section 603(b) of the Tax Reduction Act of 1975, then the export gross receipts of such DISC for the taxable years of the base period shall be increased by an amount equal to the amount of gross receipts which were excluded from export gross receipts during each taxable year of the base period by reason of the last sentence of section 993(e) (3) of such Code multiplied by a fraction, the numerator of which is the amount of the gross receipts in the taxable year which are export gross receipts by reason of 26 USC 995 note.

26 USC 993
note.

paragraph (2) of section 603(b) of the Tax Reduction Act of 1975 and the denominator of which is the amount of total gross receipts which are excluded from export gross receipts in the taxable year by reason of subparagraph (C) or (D) of paragraph (2) of section 993(c) (determined without regard to paragraph (2) of section 603(b) of the Tax Reduction Act of 1975).

TITLE XII—ADMINISTRATIVE PROVISIONS

SEC. 1201. PUBLIC INSPECTION OF WRITTEN DETERMINATIONS BY INTERNAL REVENUE SERVICE.

(a) REQUIREMENT THAT WRITTEN DETERMINATIONS BE OPEN TO PUBLIC INSPECTION.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6110 as 6111 and by inserting after section 6109 the following new section:

26 USC 6110.
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“SEC. 6110. PUBLIC INSPECTION OF WRITTEN DETERMINATIONS.

“(a) GENERAL RULE.—Except as otherwise provided in this section, the text of any written determination and any background file document relating to such written determination shall be open to public inspection at such place as the Secretary may by regulations prescribe.

“(b) DEFINITIONS.—For purposes of this section—

“(1) WRITTEN DETERMINATION.—The term ‘written determination’ means a ruling, determination letter, or technical advice memorandum.

“(2) BACKGROUND FILE DOCUMENT.—The term ‘background file document’ with respect to a written determination includes the request for that written determination, any written material submitted in support of the request, and any communication (written or otherwise) between the Internal Revenue Service and persons outside the Internal Revenue Service in connection with such written determination (other than any communication between the Department of Justice and the Internal Revenue Service relating to a pending civil or criminal case or investigation) received before issuance of the written determination.

“(3) REFERENCE AND GENERAL WRITTEN DETERMINATIONS.—

“(A) REFERENCE WRITTEN DETERMINATION.—The term ‘reference written determination’ means any written determination which has been determined by the Secretary to have significant reference value.

“(B) GENERAL WRITTEN DETERMINATION.—The term ‘general written determination’ means any written determination other than a reference written determination.

“(c) EXEMPTIONS FROM DISCLOSURE.—Before making any written determination or background file document open or available to public inspection under subsection (a), the Secretary shall delete—

“(1) the names, addresses, and other identifying details of the person to whom the written determination pertains and of any other person, other than a person with respect to whom a notation is made under subsection (d) (1), identified in the written determination or any background file document;

“(2) information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified pursuant to such Executive order;

“(3) information specifically exempted from disclosure by any statute (other than this title) which is applicable to the Internal Revenue Service;

“(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

“(5) information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

“(6) information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions; and

“(7) geological and geophysical information and data, including maps, concerning wells.

The Secretary shall determine the appropriate extent of such deletions and, except in the case of intentional or willful disregard of this subsection, shall not be required to make such deletions (nor be liable for failure to make deletions) unless the Secretary has agreed to such deletions or has been ordered by a court (in a proceeding under subsection (f) (3)) to make such deletions.

“(d) PROCEDURES WITH REGARD TO THIRD PARTY CONTACTS.—

“(1) NOTATIONS.—If, before the issuance of a written determination, the Internal Revenue Service receives any communication (written or otherwise) concerning such written determination, any request for such determination, or any other matter involving such written determination from a person other than an employee of the Internal Revenue Service or the person to whom such written determination pertains (or his authorized representative with regard to such written determination), the Internal Revenue Service shall indicate, on the written determination open to public inspection, the category of the person making such communication and the date of such communication.

“(2) EXCEPTION.—Paragraph (1) shall not apply to any communication made by the Chief of Staff of the Joint Committee on Taxation.

“(3) DISCLOSURE OF IDENTITY.—In the case of any written determination to which paragraph (1) applies, any person may file a petition in the United States Tax Court or file a complaint in the United States District Court for the District of Columbia for an order requiring that the identity of any person to whom the written determination pertains be disclosed. The court shall order disclosure of such identity if there is evidence in the record from which one could reasonably conclude that an impropriety occurred or undue influence was exercised with respect to such written determination by or on behalf of such person. The court may also direct the Secretary to disclose any portion of any other deletions made in accordance with subsection (c) where such disclosure is in the public interest. If a proceeding is commenced under this paragraph, the person whose identity is subject to being disclosed and the person about whom a notation is made under paragraph (1) shall be notified of the proceeding in accordance with the procedures described in subsection (f) (4) (B) and shall have the right to intervene in the proceeding (anonymously, if appropriate).

“(4) PERIOD IN WHICH TO BRING ACTION.—No proceeding shall be commenced under paragraph (3) unless a petition is filed before the expiration of 36 months after the first day that the written determination is open to public inspection.

“(e) **BACKGROUND FILE DOCUMENTS.**—Whenever the Secretary makes a written determination open to public inspection under this section, he shall also make available to any person, but only upon the written request of that person, any background file document relating to the written determination.

“(f) **RESOLUTION OF DISPUTES RELATING TO DISCLOSURE.**—

“(1) **NOTICE OF INTENTION TO DISCLOSE.**—The Secretary shall upon issuance of any written determination, or upon receipt of a request for a background file document, mail a notice of intention to disclose such determination or document to any person to whom the written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person).

“(2) **ADMINISTRATIVE REMEDIES.**—The Secretary shall prescribe regulations establishing administrative remedies with respect to—

“(A) requests for additional disclosure of any written determination of any background file document, and

“(B) requests to restrain disclosure.

“(3) **ACTION TO RESTRAIN DISCLOSURE.**—

“(A) **CREATION OF REMEDY.**—Any person—

“(i) to whom a written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person), or who has a direct interest in maintaining the confidentiality of any such written determination or background file document (or portion thereof),

“(ii) who disagrees with any failure to make a deletion with respect to that portion of any written determination or any background file document which is to be open or available to public inspection, and

“(iii) who has exhausted his administrative remedies as prescribed pursuant to paragraph (2),

may, within 60 days after the mailing by the Secretary of a notice of intention to disclose any written determination or background file document under paragraph (1), together with the proposed deletions, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination or background file document which is to be open to public inspection.

“(B) **NOTICE TO CERTAIN PERSONS.**—The Secretary shall notify any person to whom a written determination pertains (unless such person is the petitioner) of the filing of a petition under this paragraph with respect to such written determination or related background file document, and any such person may intervene (anonymously, if appropriate) in any proceeding conducted pursuant to this paragraph. The Secretary shall send such notice by registered or certified mail to the last known address of such person within 15 days after such petition is served on the Secretary. No person who has received such a notice may thereafter file any petition under this paragraph with respect to such written determination or background file document with respect to which such notice was received.

“(4) **ACTION TO OBTAIN ADDITIONAL DISCLOSURE.**—

“(A) **CREATION OF REMEDY.**—Any person who has exhausted the administrative remedies prescribed pursuant to para-

graph (2) with respect to a request for disclosure may file a petition in the United States Tax Court or a complaint in the United States District Court for the District of Columbia for an order requiring that any written determination or background file document (or portion thereof) be made open or available to public inspection. Except where inconsistent with subparagraph (B), the provisions of subparagraphs (C), (D), (E), (F), and (G) of section 552(a)(4) of title 5, United States Code, shall apply to any proceeding under this paragraph. The Court shall examine the matter de novo and without regard to a decision of a court under paragraph (3) with respect to such written determination or background file document, and may examine the entire text of such written determination or background file document in order to determine whether such written determination or background file document or any part thereof shall be open or available to public inspection under this section. The burden of proof with respect to the issue of disclosure of any information shall be on the Secretary and any other person seeking to restrain disclosure.

“(B) INTERVENTION.—If a proceeding is commenced under this paragraph with respect to any written determination or background file document, the Secretary shall, within 15 days after notice of the petition filed under subparagraph (A) is served on him, send notice of the commencement of such proceeding to all persons who are identified by name and address in such written determination or background file document. The Secretary shall send such notice by registered or certified mail to the last known address of such person. Any person to whom such determination or background file document pertains may intervene in the proceeding (anonymously, if appropriate). If such notice is sent, the Secretary shall not be required to defend the action and shall not be liable for public disclosure of the written determination or background file document (or any portion thereof) in accordance with the final decision of the court.

“(5) EXPEDITION OF DETERMINATION.—The Tax Court shall make a decision with respect to any petition described in paragraph (3) at the earliest practicable date and the Court of Appeals shall expedite any review of such decision in every way possible.

“(6) PUBLICITY OF TAX COURT PROCEEDINGS.—Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this section, provide by rules adopted under section 7453 that portions of hearings, testimony, evidence, and reports in connection with proceedings under this section may be closed to the public or to inspection by the public.

26 USC 7458,
7461.

“(g) TIME FOR DISCLOSURE.—

“(1) IN GENERAL.—Except as otherwise provided in this section, the text of any written determination or any background file document (as modified under subsection (c)) shall be open or available to public inspection—

“(A) no earlier than 75 days, and no later than 90 days, after the notice provided in subsection (f)(1) is mailed, or, if later,

“(B) within 30 days after the date on which a court decision under subsection (f) (3) becomes final.

“(2) POSTPONEMENT BY ORDER OF COURT.—The court may extend the period referred to in paragraph (1) (B) for such time as the court finds necessary to allow the Secretary to comply with its decision.

“(3) POSTPONEMENT OF DISCLOSURE FOR UP TO 90 DAYS.—At the written request of the person by whom or on whose behalf the request for the written determination was made, the period referred to in paragraph (1) (A) shall be extended (for not to exceed an additional 90 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

“(4) ADDITIONAL 180 DAYS.—If—

“(A) the transaction set forth in the written determination is not completed during the period set forth in paragraph (3), and

“(B) the person by whom or on whose behalf the request for the written determination was made establishes to the satisfaction of the Secretary that good cause exists for additional delay in opening the written determination to public inspection,

the period referred to in paragraph (3) shall be further extended (for not to exceed an additional 180 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

“(5) SPECIAL RULES FOR CERTAIN WRITTEN DETERMINATIONS, ETC.—Notwithstanding the provisions of paragraph (1), the Secretary shall not be required to make available to the public—

“(A) any technical advice memorandum and any related background file document involving any matter which is the subject of a civil fraud or criminal investigation or jeopardy or termination assessment until after any action relating to such investigation or assessment is completed, or

“(B) any general written determination and any related background file document that relates solely to approval of the Secretary of any adoption or change of—

“(i) the funding method or plan year of a plan under section 412,

“(ii) a taxpayer's annual accounting period under section 442,

“(iii) a taxpayer's method of accounting under section 446(e), or

“(iv) a partnership's or partner's taxable year under section 706,

but the Secretary shall make any such written determination and related background file document available upon the written request of any person after the date on which (except for this subparagraph) such determination would be open to public inspection.

“(h) DISCLOSURE OF PRIOR WRITTEN DETERMINATIONS AND RELATED BACKGROUND FILE DOCUMENTS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, a written determination issued pursuant to a request made

before November 1, 1976, and any background file document relating to such written determination shall be open or available to public inspection in accordance with this section.

“(2) TIME FOR DISCLOSURE.—In the case of any written determination or background file document which is to be made open or available to public inspection under paragraph (1)—

“(A) subsection (g) shall not apply, but

“(B) such written determination or background file document shall be made open or available to public inspection at the earliest practicable date after funds for that purpose have been appropriated and made available to the Internal Revenue Service.

“(3) ORDER OF RELEASE.—Any written determination or background file document described in paragraph (1) shall be open or available to public inspection in the following order starting with the most recent written determination in each category:

“(A) reference written determinations issued under this title;

“(B) general written determinations issued after July 4, 1967; and

“(C) reference written determinations issued under the Internal Revenue Code of 1939 or corresponding provisions of prior law.

53 Stat. 1.

General written determinations not described in subparagraph (B) shall be open to public inspection on written request, but not until after the written determinations referred to in subparagraphs (A), (B), and (C) are open to public inspection.

“(4) NOTICE THAT PRIOR WRITTEN DETERMINATIONS ARE OPEN TO PUBLIC INSPECTION.—Notwithstanding the provisions of subsections (f) (1) and (f) (3) (A), not less than 90 days before making any portion of a written determination described in this subsection open to public inspection, the Secretary shall issue public notice in the Federal Register that such written determination is to be made open to public inspection. The person who received a written determination may, within 75 days after the date of publication of notice under this paragraph, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination which is to be made open to public inspection. The provisions of subsections (f) (3) (B), (5), and (6) shall apply if such a petition is filed. If no petition is filed, the text of any written determination shall be open to public inspection no earlier than 90 days, and no later than 120 days, after notice is published in the Federal Register.

Publication in
FEDERAL
REGISTER.

Publication in
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REGISTER.

“(5) EXCLUSION.—Subsection (d) shall not apply to any written determination described in paragraph (1).

“(i) CIVIL REMEDIES.—

“(1) CIVIL ACTION.—Whenever the Secretary—

“(A) fails to make deletions required in accordance with subsection (c), or

“(B) fails to follow the procedures in subsection (g), the recipient of the written determination or any person identified in the written determination shall have as an exclusive civil remedy an action against the Secretary in the Court of Claims, which shall have jurisdiction to hear any action under this paragraph.

“(2) DAMAGES.—In any suit brought under the provisions of paragraph (1) (A) in which the Court determines that an em-

ployee of the Internal Revenue Service intentionally or willfully failed to delete in accordance with subsection (c), or in any suit brought under subparagraph (1)(B) in which the Court determines that an employee intentionally or willfully failed to act in accordance with subsection (g), the United States shall be liable to the person in an amount equal to the sum of—

“(A) actual damages sustained by the person but in no case shall a person be entitled to receive less than the sum of \$1,000, and

“(B) the costs of the action together with reasonable attorney’s fees as determined by the Court.

“(j) SPECIAL PROVISIONS.—

“(1) FEES.—The Secretary is authorized to assess actual costs—

“(A) for duplication of any written determination or background file document made open or available to the public under this section, and

“(B) incurred in searching for and making deletions required under subsection (c) from any written determination or background file document which is available to public inspection only upon written request.

The Secretary shall furnish any written determination or background file document without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing such determination or background file document can be considered as primarily benefiting the general public.

“(2) RECORDS DISPOSAL PROCEDURES.—Nothing in this section shall prevent the Secretary from disposing of any general written determination or background file document described in subsection (b) in accordance with established records disposition procedures, but such disposal shall, except as provided in the following sentence, occur not earlier than 3 years after such written determination is first made open to public inspection. In the case of any general written determination described in subsection (h), the Secretary may dispose of such determination and any related background file document in accordance with such procedures but such disposal shall not occur earlier than 3 years after such written determination is first made open to public inspection if funds are appropriated for such purpose before January 20, 1979, or not earlier than January 20, 1979, if funds are not appropriated before such date. The Secretary shall not dispose of any reference written determinations and related background file documents.

“(3) PRECEDENTIAL STATUS.—Unless the Secretary otherwise establishes by regulations, a written determination may not be used or cited as precedent. The preceding sentence shall not apply to change the precedential status (if any) of written determinations with regard to taxes imposed by subtitle D of this title.

“(k) SECTION NOT TO APPLY.—This section shall not apply to—

“(1) any matter to which section 6104 applies, or

“(2) any—

“(A) written determination issued pursuant to a request made before November 1, 1976, with respect to the exempt status under section 501(a) of an organization described in section 501 (c) or (d), the status of an organization as a private foundation under section 509(a), or the status of

an organization as an operating foundation under section 4942(j)(3),

“(B) written determination described in subsection (g)(5)(B) issued pursuant to a request made before November 1, 1976,

“(C) determination letter not otherwise described in subparagraph (A), (B), or (E) issued pursuant to a request made before November 1, 1976,

“(D) background file document relating to any general written determination issued before July 5, 1967, or

“(E) letter or other document described in section 6104(a)(1)(B)(iv) issued before September 2, 1974.

“(1) **EXCLUSIVE REMEDY.**—Except as otherwise provided in this title, or with respect to a discovery order made in connection with a judicial proceeding, the Secretary shall not be required by any Court to make any written determination or background file document open or available to public inspection, or to refrain from disclosure of any such documents.”

(b) **EFFECT UPON PENDING REQUESTS.**—Any written determination or background file document which is the subject of a judicial proceeding pursuant to section 552 of title 5, United States Code, commenced before January 1, 1976, shall not be treated as a written determination subject to subsection (h)(1), but shall be available to the complainant along with the background file document, if requested, as soon as practicable after July 1, 1976. 26 USC 6110 note.

(c) **CLERICAL AMENDMENT.**—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6110 and inserting in lieu thereof the following:

Ante, p. 1660.

“Sec. 6110. Public inspection of written determinations.

“Sec. 6111. Cross references.”

(d) **LETTERS MADE PUBLIC.**—

(1) Section 6104(a)(1)(A) (relating to inspection of applications for tax exemption) is amended— 26 USC 6104.

(A) by inserting after “such application,” in the first sentence thereof the following: “and any letter or other document issued by the Internal Revenue Service with respect to such application”; and

(B) by inserting after “such application” in the second sentence thereof the following: “and such letter or document”.

(2) The amendments made by this subsection apply to any letter or other document issued with respect to applications filed after October 31, 1976. 26 USC 6104 note.

(e) **EFFECTIVE DATE.**—Except as otherwise provided in this section, the amendments made by this section shall take effect on November 1, 1976. 26 USC 6110 note.

SEC. 1202. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) **CONFIDENTIALITY.**—

(1) **IN GENERAL.**—Section 6103 (relating to publicity of tax returns and disclosure of information as to persons filing tax returns) is amended to read as follows: 26 USC 6103.

“SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

“(a) **GENERAL RULE.**—Returns and return information shall be confidential, and except as authorized by this title—

26 USC 6103.

“(1) no officer or employee of the United States,

“(2) no officer or employee of any State or of any local child support enforcement agency who has or had access to returns or return information under this section, and

“(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e) (1) (D) (iii) or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term ‘officer or employee’ includes a former officer or employee.

“Officer or employee.”

“(b) DEFINITIONS.—For purposes of this section—

“(1) RETURN.—The term ‘return’ means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

“(2) RETURN INFORMATION.—The term ‘return information’ means—

“(A) a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and

“(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

“(3) TAXPAYER RETURN INFORMATION.—The term ‘taxpayer return information’ means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

“(4) TAX ADMINISTRATION.—The term ‘tax administration’—

“(A) means—

“(i) the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and

“(ii) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and

Ante, p. 1660.

“(B) includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

“(5) STATE.—The term ‘State’ means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

“(6) TAXPAYER IDENTITY.—The term ‘taxpayer identity’ means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

26 USC 6109.

“(7) INSPECTION.—The terms ‘inspected’ and ‘inspection’ mean any examination of a return or return information.

“(8) DISCLOSURE.—The term ‘disclosure’ means the making known to any person in any manner whatever a return or return information.

“(9) FEDERAL AGENCY.—The term ‘Federal agency’ means an agency within the meaning of section 551(1) of title 5, United States Code.

“(c) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.—The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a written request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

Regulations.

“(d) DISCLOSURE TO STATE TAX OFFICIALS.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 44, 51, and 52 and subchapter D of chapter 36, shall be open to inspection by or disclosure to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the return or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

26 USC 1, 1401,
1501, 2001,
2501, 3101,
3301, 3401,
Post, p. 1754.
26 USC 5001,
5701, 4481.

“(e) DISCLOSURE TO PERSONS HAVING MATERIAL INTEREST.—

“(1) IN GENERAL.—The return of a person shall, upon written request, be open to inspection by or disclosure to—

“(A) in the case of the return of an individual—

“(i) that individual,

Ante, p. 1578.

“(ii) if property transferred by that individual to a trust is sold or exchanged in a transaction described in section 644, the trustee or trustees, jointly or separately, of such trust to the extent necessary to ascertain any amount of tax imposed upon the trust by section 644, or

“(iii) the spouse of that individual if the individual and such spouse have signified their consent to consider a gift reported on such return as made one-half by him and one-half by the spouse pursuant to the provisions of section 2513;

26 USC 2513.

“(B) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

“(C) in the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

“(D) in the case of the return of a corporation or a subsidiary thereof—

“(i) any person designated by resolution of its board of directors or other similar governing body,

“(ii) any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer,

“(iii) any bona fide shareholder of record owning 1 percent or more of the outstanding stock of such corporation,

“(iv) if the corporation was a foreign personal holding company, as defined by section 552, any person who was a shareholder during any part of a period covered by such return if with respect to that period, or any part thereof, such shareholder was required under section 551 to include in his gross income undistributed foreign personal holding company income of such company,

26 USC 1371.

“(v) if the corporation was an electing small business corporation under subchapter S of chapter 1, any person who was a shareholder during any part of the period covered by such return during which an election was in effect, or

“(vi) if the corporation has been dissolved, any person authorized by applicable State law to act for the corporation or any person who the Secretary finds to have a material interest which will be affected by information contained therein;

“(E) in the case of the return of an estate—

“(i) the administrator, executor, or trustee of such estate, and

“(ii) any heir at law, next of kin, or beneficiary under the will, of the decedent, but only if the Secretary finds that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained therein; and

“(F) in the case of the return of a trust—

“(i) the trustee or trustees, jointly or separately, and

“(ii) any beneficiary of such trust, but only if the Secretary finds that such beneficiary has a material interest which will be affected by information contained therein.

"(2) INCOMPETENCY.—If an individual described in paragraph (1) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee, or guardian of his estate.

"(3) DECEASED INDIVIDUALS.—The return of a decedent shall, upon written request, be open to inspection by or disclosure to—

"(A) the administrator, executor, or trustee of his estate, and

"(B) any heir at law, next of kin, or beneficiary under the will, of such decedent, or a donee of property, but only if the Secretary finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

"(4) BANKRUPTCY.—If substantially all of the property of the person with respect to whom the return is filed is in the hands of a trustee in bankruptcy or receiver, such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary finds that such receiver or trustee, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

"(5) ATTORNEY IN FACT.—Any return to which this subsection applies shall, upon written request, also be open to inspection by or disclosure to the attorney in fact duly authorized in writing by any of the persons described in paragraph (1), (2), (3), or (4) to inspect the return or receive the information on his behalf, subject to the conditions provided in such paragraphs.

"(6) RETURN INFORMATION.—Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Secretary determines that such disclosure would not seriously impair Federal tax administration.

"(f) DISCLOSURE TO COMMITTEES OF CONGRESS.—

"(1) COMMITTEE ON WAYS AND MEANS, COMMITTEE ON FINANCE, AND JOINT COMMITTEE ON TAXATION.—Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(2) CHIEF OF STAFF OF JOINT COMMITTEE ON TAXATION.—Upon written request by the Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any return or return information specified in such request. Such Chief of Staff may submit such return or return information to any committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(3) OTHER COMMITTEES.—Pursuant to an action by, and upon

written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

“(4) AGENTS OF COMMITTEES AND SUBMISSION OF INFORMATION TO SENATE OR HOUSE OF REPRESENTATIVES.—

“(A) COMMITTEES DESCRIBED IN PARAGRAPH (1).—Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such committee or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

“(B) OTHER COMMITTEES.—Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

“(g) DISCLOSURE TO PRESIDENT AND CERTAIN OTHER PERSONS.—

“(1) IN GENERAL.—Upon written request by the President, signed by him personally, the Secretary shall furnish to the Presi-

dent, or to such employee or employees of the White House Office as the President may designate by name in such request, a return or return information with respect to any taxpayer named in such request. Any such request shall state—

“(A) the name and address of the taxpayer whose return or return information is to be disclosed,

“(B) the kind of return or return information which is to be disclosed,

“(C) the taxable period or periods covered by such return or return information, and

“(D) the specific reason why the inspection or disclosure is requested.

“(2) DISCLOSURE OF RETURN INFORMATION AS TO PRESIDENTIAL APPOINTEES AND CERTAIN OTHER FEDERAL GOVERNMENT APPOINTEES.—The Secretary may disclose to a duly authorized representative of the Executive Office of the President or to the head of any Federal agency, upon written request by the President or head of such agency, or to the Federal Bureau of Investigation on behalf of and upon written request by the President or such head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government. Such return information shall be limited to whether such individual—

“(A) has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years; 26 USC 1.

“(B) has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;

“(C) has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of any such investigation; or

“(D) has been assessed any civil penalty under this title for fraud.

Within 3 days of the receipt of any request for any return information with respect to any individual under this paragraph, the Secretary shall notify such individual in writing that such information has been requested under the provisions of this paragraph.

Notification.

“(3) RESTRICTION ON DISCLOSURE.—The employees to whom returns and return information are disclosed under this subsection shall not disclose such returns and return information to any other person except the President or the head of such agency without the personal written direction of the President or the head of such agency.

“(4) RESTRICTION ON DISCLOSURE TO CERTAIN EMPLOYEES.—Disclosure of returns and return information under this subsection shall not be made to any employee whose annual rate of basic pay is less than the annual rate of basic pay specified for positions subject to section 5316 of title 5, United States Code.

“(5) REPORTING REQUIREMENTS.—Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were

Report to congressional committee.

made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests. The President shall not be required to report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

“(h) DISCLOSURE TO CERTAIN FEDERAL OFFICERS AND EMPLOYEES FOR PURPOSES OF TAX ADMINISTRATION, ETC.—

“(1) DEPARTMENT OF THE TREASURY.—Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

“(2) DEPARTMENT OF JUSTICE.—A return or return information shall be open to inspection by or disclosure to attorneys of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court in a matter involving tax administration, but only if—

“(A) the taxpayer is or may be a party to such proceeding;

“(B) the treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding or investigation; or

“(C) such return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer which affects, or may affect, the resolution of an issue in such proceeding or investigation.

“(3) FORM OF REQUEST.—In any case in which the Secretary is authorized to disclose a return or return information to the Department of Justice pursuant to the provisions of this subsection—

“(A) if the Secretary has referred the case to the Department of Justice, or if the proceeding is authorized by subchapter B of chapter 76, the Secretary may make such disclosure on his own motion, or

“(B) if the Secretary receives a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General for a return of, or return information relating to, a person named in such request and setting forth the need for the disclosure, the Secretary shall disclose return or return information so requested.

“(4) DISCLOSURE IN JUDICIAL AND ADMINISTRATIVE TAX PROCEEDINGS.—A return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—

“(A) if the taxpayer is a party to such proceeding;

“(B) if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;

“(C) if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or

“(D) to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

18 USC app.

However, such return or return information shall not be disclosed as provided in subparagraph (A), (B), or (C) if the Secretary determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

“(5) PROSPECTIVE JURORS.—In connection with any judicial proceeding described in paragraph (4) to which the United States is a party, the Secretary shall respond to a written inquiry from an attorney of the Department of Justice (including a United States attorney) involved in such proceeding or any person (or his legal representative) who is a party to such proceeding as to whether an individual who is a prospective juror in such proceeding has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service. The Secretary shall limit such response to an affirmative or negative reply to such inquiry.

“(i) DISCLOSURE TO FEDERAL OFFICERS OR EMPLOYEES FOR ADMINISTRATION OF FEDERAL LAWS NOT RELATING TO TAX ADMINISTRATION.—

“(1) NONTAX CRIMINAL INVESTIGATION.—

“(A) INFORMATION FROM TAXPAYER.—A return or taxpayer return information shall, pursuant to, and upon the grant of, an ex parte order by a Federal district court judge as provided by this paragraph, be open, but only to the extent necessary as provided in such order, to officers and employees of a Federal agency personally and directly engaged in and solely for their use in preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party.

“(B) APPLICATION FOR ORDER.—The head of any Federal agency described in subparagraph (A) or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, may authorize an application to a Federal district court judge for the order referred to in subparagraph (A). Upon such application, such judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

“(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

“(ii) there is reason to believe that such return or return information is probative evidence of a matter in

issue related to the commission of such criminal act; and

“(iii) the information sought to be disclosed cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines and certifies to the court that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

“(2) RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION.—Upon written request from the head of a Federal agency described in paragraph (1) (A), or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) described in paragraph (1) (A). Such request shall set forth—

“(A) the name and address of the taxpayer with respect to whom such return information relates;

“(B) the taxable period or periods to which the return information relates;

“(C) the statutory authority under which the proceeding or investigation is being conducted; and

“(D) the specific reason or reasons why such disclosure is or may be material to the proceeding or investigation.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

“(3) DISCLOSURE OF RETURN INFORMATION CONCERNING POSSIBLE CRIMINAL ACTIVITIES.—The Secretary may disclose in writing return information, other than taxpayer return information, which may constitute evidence of a violation of Federal criminal laws to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility for enforcing such laws.

“(4) USE IN JUDICIAL OR ADMINISTRATIVE PROCEEDING.—Any return or return information obtained under paragraph (1), (2), or (3) may be entered into evidence in any administrative or judicial proceeding pertaining to enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or an agency described in paragraph (1) (A) is a party but, in the case of any return or return information obtained under paragraph (1), only if the court finds that such return or return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt of a party. However, any return or return information obtained under paragraph (1), (2), or (3) shall not be admitted into evidence in such proceeding if the Secretary determines and

notifies the Attorney General or his delegate or the head of such agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation. The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in such proceeding.

“(5) RENEGOTIATION OF CONTRACTS.—A return or return information with respect to the tax imposed by chapter 1 upon a taxpayer subject to the provisions of the Renegotiation Act of 1951 shall, upon request in writing by the Chairman of the Renegotiation Board, be open to officers and employees of such board personally and directly engaged in, and solely for their use in, verifying or analyzing financial information required by such Act to be filed with, or otherwise disclosed to, the board, or to the extent necessary to implement the provisions of section 1481 or 1482. The Chairman of the Renegotiation Board may, upon referral of any matter with respect to such Act to the Department of Justice for further legal action, disclose such return and return information to any employee of such department charged with the responsibility for handling such matters.

26 USC 1.
50 USC app.
1211 note.

26 USC 1481,
1482.

“(6) COMPTROLLER GENERAL.—

“(A) RETURNS AVAILABLE FOR INSPECTION.—Except as provided in subparagraph (B), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—

“(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67), or

“(ii) any audit authorized by subsection (p) (6), except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p) (6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

“(B) DISAPPROVAL BY JOINT COMMITTEE ON TAXATION.—Returns and return information shall not be open to inspection or disclosed under subparagraph (A) with respect to an audit—

“(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

“(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

“(j) STATISTICAL USE.—

“(1) DEPARTMENT OF COMMERCE.—Upon request in writing by the Secretary of Commerce, the Secretary shall furnish—

“(A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and

“(B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis,

as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

“(2) FEDERAL TRADE COMMISSION.—Upon request in writing by the Chairman of the Federal Trade Commission, the Secretary shall furnish such return information reflected on any return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Division of Financial Statistics of the Bureau of Economics of such commission as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, administration by such division of legally authorized economic surveys of corporations.

“(3) DEPARTMENT OF TREASURY.—Returns and return information shall be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, preparing economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities. Such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Department of the Treasury requesting the inspection or disclosure.

“(4) ANONYMOUS FORM.—No person who receives a return or return information under this subsection shall disclose such return or return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

“(k) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION FOR TAX ADMINISTRATION PURPOSES.—

“(1) DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.—Return information shall be disclosed to members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

“(2) DISCLOSURE OF AMOUNT OF OUTSTANDING LIEN.—If a notice of lien has been filed pursuant to section 6323(f), the amount of the outstanding obligation secured by such lien may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.

“(3) DISCLOSURE OF RETURN INFORMATION TO CORRECT MISSTATEMENTS OF FACT.—The Secretary may, but only following approval by the Joint Committee on Taxation, disclose such return information or any other information with respect to any specific taxpayer to the extent necessary for tax administration purposes to correct a misstatement of fact published or disclosed

Regulations.

26 USC 1.

26 USC 7122.

with respect to such taxpayer's return or any transaction of the taxpayer with the Internal Revenue Service.

"(4) DISCLOSURE TO COMPETENT AUTHORITY UNDER INCOME TAX CONVENTION.—A return or return information may be disclosed to a competent authority of a foreign government which has an income tax convention with the United States but only to the extent provided in, and subject to the terms and conditions of, such convention.

"(5) STATE AGENCIES REGULATING TAX RETURN PREPARERS.—Taxpayer identity information with respect to any income tax return preparer, and information as to whether or not any penalty has been assessed against such income tax return preparer under section 6694, 6695, or 7216, may be furnished to any agency, body, or commission lawfully charged under any State or local law with the licensing, registration, or regulation of income tax return preparers. Such information may be furnished only upon written request by the head of such agency, body, or commission designating the officers or employees to whom such information is to be furnished. Information may be furnished and used under this paragraph only for purposes of the licensing, registration, or regulation of income tax return preparers.

"(6) DISCLOSURE BY INTERNAL REVENUE OFFICERS AND EMPLOYEES FOR INVESTIGATIVE PURPOSES.—An internal revenue officer or employee may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under the internal revenue laws, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this title. Such disclosures shall be made only in such situations and under such conditions as the Secretary may prescribe by regulation.

"(1) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—

"(1) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION AND RAILROAD RETIREMENT BOARD.—The Secretary may, upon written request, disclose returns and return information with respect to—

"(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

"(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057 (d) ; and

"(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

"(2) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO THE DEPARTMENT OF LABOR AND PENSION BENEFIT GUARANTY CORPORATION.—The Secretary may, upon written request, furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the

Post, pp. 1689,
1692.
26 USC 7216.

Regulations.

26 USC 1401,
3101, 3401.
42 USC 1305.
26 USC 401.

42 USC
1320b-1.
26 USC 6057.
26 USC 3201.
45 USC 215
note.

29 USC 1001
note.

administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

“(3) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO PRIVACY PROTECTION STUDY COMMISSION.—The Secretary may, upon written request, disclose returns and return information to the Privacy Protection Study Commission, or to such members, officers, or employees of such commission as may be named in such written request, to the extent provided under section 5 of the Privacy Act of 1974.

“(4) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN PERSONNEL OR CLAIMANT REPRESENTATIVE MATTERS.—The Secretary may disclose returns and return information—

“(A) upon written request—

“(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

“(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026),

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

“(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

“(5) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Upon written request by the Secretary of Health, Education, and Welfare, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program.

“(6) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

“(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

“(i) available return information from the master files of the Internal Revenue Service relating to the address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect

26 USC 6031.

42 USC 432.

42 USC 651.

to any individual to whom such support obligations are owing, and

“(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual’s gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

26 USC 61.

“(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

“(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—The Secretary is authorized—

“(1) to disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons, and

“(2) upon written request, to disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

31 USC 952.
Regulations.

“(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration.

“(o) DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO CERTAIN TAXES.—

“(1) TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.

26 USC 5001.

“(2) TAXES IMPOSED BY CHAPTER 35.—Returns and return information with respect to taxes imposed by chapter 35 (relating to taxes on wagering) shall, notwithstanding any other provision of this section, be open to inspection by or disclosure only to such person or persons and for such purpose or purposes as are prescribed by section 4424.

26 USC 4401.

“(p) PROCEDURE AND RECORDKEEPING.—

“(1) MANNER, TIME, AND PLACE OF INSPECTIONS.—Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

“(2) PROCEDURE.—

“(A) REPRODUCTION OF RETURNS.—A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection

of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.

“(B) DISCLOSURE OF RETURN INFORMATION.—Return information disclosed to any person under the provisions of this title may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

“(C) USE OF REPRODUCTIONS.—Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

“(3) RECORDS OF INSPECTION AND DISCLOSURE.—

“(A) SYSTEM OF RECORDKEEPING.—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (h) (1), (3) (A), or (4), (i) (4) or (6) (A) (ii), (k) (1), (2), or (6), (l) (1) or (4) (B) or (5), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c) (3) of title 5, United States Code.

“(B) REPORT BY THE SECRETARY.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may,

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by record vote of a majority of the members of the joint committee, determine.

“(C) PUBLIC REPORT ON DISCLOSURES.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which—

“(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d) or (1) (3) or (6), and the General Accounting Office the number of—

“(I) requests for disclosure of returns and return information,

“(II) instances in which returns and return information were disclosed pursuant to such requests,

“(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

“(ii) describes the general purposes for which such requests were made,

“(4) SAFEGUARDS.—Any Federal agency described in subsection (h) (2), (i) (1), (2) or (5), (j) (1) or (2), (l) (1), (2), or (5), or (o) (1), the General Accounting Office, or any agency, body, or commission described in subsection (d) or (1) (3) or (6) shall, as a condition for receiving returns or return information—

“(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

“(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

“(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

“(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

“(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

“(F) upon completion of use of such returns or return information—

“(i) in the case of an agency, body, or commission described in subsection (d) or (1) (6), return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

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“(ii) in the case of an agency described in subsections (h) (2), (i) (1), (2), or (5), (j) (1) or (2), (l) (1), (2), or (5), or (o) (1), the commission described in subsection (1) (3), or the General Accounting Office, either—

“(I) return to the Secretary such returns or return information (along with any copies made therefrom),

“(II) otherwise make such returns or return information undisclosable, or

“(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information,

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met.

“(5) **REPORT ON PROCEDURES AND SAFEGUARDS.**—After the close of each calendar quarter, the Secretary shall furnish to each committee described in subsection (f) (1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions and the General Accounting Office for ensuring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

“(6) **AUDIT OF PROCEDURES AND SAFEGUARDS.**—

“(A) **AUDIT BY COMPTROLLER GENERAL.**—The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

“(B) **RECORDS OF INSPECTION AND REPORTS BY THE COMPTROLLER GENERAL.**—The Comptroller General shall—

“(i) maintain a permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the General Accounting Office under subsection (i) (6) (A) (ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

“(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph (A).

Report to congressional committees.

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).

“(7) ADMINISTRATIVE REVIEW.—The Secretary shall by regulations prescribe procedures which provide for administrative review of any determination under paragraph (4) that any agency, body, or commission described in subsection (d) has failed to meet the requirements of such paragraph.

Regulations.

“(8) STATE LAW REQUIREMENTS.—

“(A) SAFEGUARDS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

“(B) DISCLOSURE OF RETURNS OR RETURN INFORMATION IN STATE RETURNS.—Nothing in subparagraph (A) shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

“(q) REGULATIONS.—The Secretary is authorized to prescribe such other regulations as are necessary to carry out the provisions of this section.”

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6103 and inserting in lieu thereof the following:

“Sec. 6103. Confidentiality and disclosure of returns and return information.”

(b) STATISTICAL PUBLICATIONS AND STUDIES.—Section 6108 (relating to publication of statistics of income) is amended to read as follows: 26 USC 6108.

“SEC. 6108. STATISTICAL PUBLICATIONS AND STUDIES.

“(a) PUBLICATION OR OTHER DISCLOSURE OF STATISTICS OF INCOME.—The Secretary shall prepare and publish not less than annually statistics reasonably available with respect to the operations of the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

“(b) SPECIAL STATISTICAL STUDIES.—The Secretary may, upon written request by any party or parties, make special statistical studies and compilations involving return information (as defined in section 6103(b)(2)) and furnish to such party or parties transcripts of any such special statistical study or compilation. A reasonable fee may be prescribed for the cost of the work or services performed for such party or parties.

“(c) **ANONYMOUS FORM.**—No publication or other disclosure of statistics or other information required or authorized by subsection (a) or special statistical study authorized by subsection (b) shall in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed to be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.”

26 USC 4102.

(c) **INSPECTION OF CERTAIN RECORDS BY LOCAL OFFICERS.**—

(1) **IN GENERAL.**—Section 4102 (relating to inspection of records, returns, etc., by local officers) is amended to read as follows:

“SEC. 4102. INSPECTION OF RECORDS BY LOCAL OFFICERS.

Regulations.

“Under regulations prescribed by the Secretary, records required to be kept with respect to taxes under this part shall be open to inspection by such officers of a State, or a political subdivision of any such State, as shall be charged with the enforcement or collection of any tax on gasoline or lubricating oils.”

(2) **CONFORMING AMENDMENT.**—The table of sections for subpart B of part III of chapter 32 is amended by striking out the item relating to section 4102 and inserting in lieu thereof the following:

“Sec. 4102. Inspection of records by local officers.”

26 USC 7213.

(d) **PENALTY FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.**—Section 7213 (relating to unauthorized disclosure of information) is amended by striking out subsection (c), redesignating subsections (d) and (e) as (c) and (d), respectively, and by amending subsection (a) to read as follows:

“(a) **RETURNS AND RETURN INFORMATION.**—

Ante, p. 1681.

“(1) **FEDERAL EMPLOYEES AND OTHER PERSONS.**—It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

Ante, p. 1668.

“(2) **STATE AND OTHER EMPLOYEES.**—It shall be unlawful for any officer, employee, or agent, or former officer, employee, or agent, of any State (as defined in section 6103(b)(5)) or any local child support enforcement agency to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under section 6103(d) or (l)(6). Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

“(3) **OTHER PERSONS.**—It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title to thereafter print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount

not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

“(4) SOLICITATION.—It shall be unlawful for any person to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution. *Ante*, p. 1668.

“(5) SHAREHOLDERS.—It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e) (1) (D) (iii) to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.”

(e) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.—

(1) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to miscellaneous penalties and forfeitures) is amended by adding at the end thereof the following new section:

“SEC. 7217. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION. 26 USC 7217.

“(a) GENERAL RULE.—Whenever any person knowingly, or by reason of negligence, discloses a return or return information (as defined in section 6103(b)) with respect to a taxpayer in violation of the provisions of section 6103, such taxpayer may bring a civil action for damages against such person, and the district courts of the United States shall have jurisdiction of any action commenced under the provisions of this section.

“(b) DAMAGES.—In any suit brought under the provisions of subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

“(1) actual damages sustained by the plaintiff as a result of the unauthorized disclosure of the return or return information and, in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, but in no case shall a plaintiff entitled to recovery receive less than the sum of \$1,000 with respect to each instance of such unauthorized disclosure; and

“(2) the costs of the action.

“(c) An action to enforce any liability created under this section may be brought, without regard to the amount in controversy, within 2 years from the date on which the cause of action arises or at any time within 2 years after discovery by the plaintiff of the unauthorized disclosure.”

(2) CONFORMING AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

“Sec. 7217. Civil damages for unauthorized disclosure of returns and return information.”

(f) PROCESSING OF RETURNS, RETURN INFORMATION, AND OTHER DOCUMENTS.—Section 7513 (relating to reproduction of returns and other documents) is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c). 26 USC 7513.

26 USC 7852.

(g) OTHER APPLICABLE RULES.—Section 7852 (relating to other rules applicable under title 26) is amended by adding at the end thereof the following new subsection:

“(e) PRIVACY ACT OF 1974.—The provisions of subsections (d) (2), (3), and (4), and (g) of section 552a of title 5, United States Code, shall not be applied, directly or indirectly, to the determination of the existence or possible existence of liability (or the amount thereof) of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense to which the provisions of this title apply.”

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 6106.

(1) Section 6106 (relating to publicity of unemployment tax returns) is hereby repealed.

26 USC 6323.

(2) Section 6323 (relating to validity and priority of tax liens against certain persons) is amended by striking out paragraph (3) of subsection (i).

26 USC 7213.

(3) Subsection (d) of section 7213 (relating to cross references) is amended by striking out paragraph (1) and inserting in lieu thereof:

“(1) Penalties for disclosure of information by preparers of returns.—For penalty for disclosure or use of information by preparers of returns, see section 7216.”

26 USC 7515.

(4) Section 7515 (relating to special statistical studies and compilations and other services on request) is hereby repealed.

26 USC 7809.

(5) Subsection (c) of section 7809 (relating to deposit of collections) is amended by striking out in paragraph (1) “section 7515 (relating to special statistical studies and compilations for other services on request)” and inserting in lieu thereof “section 6103(p) (relating to furnishing of copies of returns or of return information), and section 6108(b) (relating to special statistical studies and compilations)”.

26 USC 4424.

(6) Subsection (d) of section 4424 (relating to disclosure of wagering tax information) is amended by striking out “6103(d)” and inserting in lieu thereof “6103(f)”.

26 USC 6103
note.

(i) EFFECTIVE DATE.—The amendments made by this section take effect January 1, 1977.

SEC. 1203. INCOME TAX RETURN PREPARERS.

26 USC 7701.

(a) DEFINITION.—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

“(36) INCOME TAX RETURN PREPARER.—

“Income tax
return
preparer.”

26 USC 1.

“(A) IN GENERAL.—The term ‘income tax return preparer’ means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by subtitle A or any claim for refund of tax imposed by subtitle A. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

“(B) EXCEPTIONS.—A person shall not be an ‘income tax return preparer’ merely because such person—

“(i) furnishes typing, reproducing, or other mechanical assistance,

“(ii) prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,

“(iii) prepares a return or claim for refund for any trust or estate with respect to which he is a fiduciary, or

“(iv) prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.”

(b) ASSESSABLE PENALTIES WHERE PREPARER UNDERSTATES TAXPAYER'S LIABILITY.—

(1) **IN GENERAL.**—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

“SEC. 6694. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER. 26 USC 6694.

“(a) NEGLIGENCE OR INTENTIONAL DISREGARD OF RULES AND REGULATIONS.—If any part of any understatement of liability with respect to any return or claim for refund is due to the negligent or intentional disregard of rules and regulations by any person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of \$100 with respect to such return or claim. Penalties.

“(b) WILLFUL UNDERSTATEMENT OF LIABILITY.—If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of \$500 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

“(c) EXTENSION OF PERIOD OF COLLECTION WHERE PREPARER PAYS 15 PERCENT OF PENALTY.—

“(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under subsection (a) or (b) is made against any person who is an income tax return preparer, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421 (a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

“(2) PREPARER MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under subsection (a) or (b) is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the income tax return preparer fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

“(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in

section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

“(d) **ABATEMENT OF PENALTY WHERE TAXPAYER'S LIABILITY NOT UNDERSTATED.**—If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty under subsection (a) or (b) has been assessed, such assessment shall be abated, and if any portion of such penalty has been paid the amount so paid shall be refunded to the person who made such payment as an overpayment of tax without regard to any period of limitations which, but for this subsection, would apply to the making of such refund.

26 USC 1.

“(e) **UNDERSTATEMENT OF LIABILITY DEFINED.**—For purposes of this section, the term ‘understatement of liability’ means any understatement of the net amount payable with respect to any tax imposed by subtitle A or any overstatement of the net amount creditable or refundable with respect to any such tax. Except as otherwise provided in subsection (d), the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

“(f) **CROSS REFERENCE.**—

Ante, p. 1688

“For definition of income tax return preparer, see section 7701 (a)(36).”

(2) **BURDEN OF PROOF UNDER 6694 (b).**—

26 USC 7428.

(A) Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7427 as section 7428 and by inserting after section 7426 the following new section:

26 USC 7427.

“**SEC. 7427. INCOME TAX RETURN PREPARERS.**

Ante, p. 1689.

“In any proceeding involving the issue of whether or not an income tax return preparer has willfully attempted in any manner to understate the liability for tax (within the meaning of section 6694 (b)), the burden of proof in respect to such issue shall be upon the Secretary.”

(B) The table of sections for such subchapter B is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 7427. Income tax return preparers.

“Sec. 7428. Cross references.”

(c) **PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN COPY OR LIST.**—Subchapter B of chapter 61 (relating to information and returns) is amended by inserting after section 6106 the following new section:

26 USC 6107.

“**SEC. 6107. INCOME TAX RETURN PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN A COPY OR LIST.**

“(a) **FURNISHING COPY TO TAXPAYER.**—Any person who is an income tax return preparer with respect to any return or claim for refund shall furnish a completed copy of such return or claim to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature.

“(b) **COPY OR LIST TO BE RETAINED BY INCOME TAX RETURN PREPARER.**—Any person who is an income tax return preparer with

respect to a return or claim for refund shall, for the period ending 3 years after the close of the return period—

“(1) retain a completed copy of such return or claim, or retain, on a list, the name and taxpayer identification number of the taxpayer for whom such return or claim was prepared, and

“(2) make such copy or list available for inspection upon request by the Secretary.

“(c) **REGULATIONS.**—The Secretary shall prescribe regulations under which, in cases where 2 or more persons are income tax return preparers with respect to the same return or claim for refund, compliance with the requirements of subsection (a) or (b), as the case may be, of one such person shall be deemed to be compliance with the requirements of such subsection by the other persons.

“(d) **DEFINITIONS.**—For purposes of this section, the terms ‘return’ and ‘claim for refund’ have the respective meanings given to such terms by section 6696(e), and the term ‘return period’ has the meaning given to such term by section 6060(c).”

Post, p. 1693.
Infra.

(d) **TAXPAYER IDENTIFYING NUMBER OF PREPARER TO BE FURNISHED.**—Section 6109(a) (relating to supplying of identifying numbers) is amended by adding at the end thereof the following:

26 USC 6109.

“(4) **FURNISHING IDENTIFYING NUMBER OF INCOME TAX RETURN PREPARER.**—Any return or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed. For purposes of this paragraph, the terms ‘return’ and ‘claim for refund’ have the respective meanings given to such terms by section 6696(e).

Definitions.

For purposes of this subsection, the identifying number of an individual (or his estate) shall be such individual’s social security account number.”

(e) **PREPARER MUST FILE ANNUAL INFORMATION RETURN.**—Part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new subpart:

“Subpart F—Information Concerning Income Tax Return Preparers

“Sec. 6060. Information returns of income tax return preparers.

“**SEC. 6060. INFORMATION RETURNS OF INCOME TAX RETURN PREPARERS.**

26 USC 6060.

“(a) **GENERAL RULE.**—Any person who employs an income tax return preparer to prepare any return or claim for refund other than for such person at any time during a return period shall make a return setting forth the name, taxpayer identification number, and place of work of each income tax return preparer employed by him at any time during such period. For purposes of this section, any individual who in acting as an income tax return preparer is not the employee of another income tax return preparer shall be treated as his own employer. The return required by this section shall be filed, in such manner as the Secretary may by regulations prescribe, on or before the first July 31 following the end of such return period.

Regulations.

“(b) **ALTERNATIVE REPORTING.**—In lieu of the return required by subsection (a), the Secretary may approve an alternative reporting method if he determines that the necessary information is available to him from other sources.

“(c) **RETURN PERIOD DEFINED.**—For purposes of subsection (a), the term ‘return period’ means the 12-month period beginning on

July 1 of each year, except that the first return period shall be the 6-month period beginning on January 1, 1977, and ending on June 30, 1977.”

(f) OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new sections:

26 USC 6695.

“SEC. 6695. OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.

Ante, p. 1690.

“(a) FAILURE TO FURNISH COPY TO TAXPAYER.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(a) with respect to such return or claim shall pay a penalty of \$25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

Regulations.

“(b) FAILURE TO SIGN RETURN.—Any person who is an income tax return preparer with respect to any return or claim for refund, who is required by regulations prescribed by the Secretary to sign such return or claim, and who fails to comply with such regulations with respect to such return or claim shall pay a penalty of \$25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

“(c) FAILURE TO FURNISH IDENTIFYING NUMBER.—Any person who is an income tax return preparer with respect to any return or claim for refund and who fails to comply with section 6109(a)(4) with respect to such return or claim shall pay a penalty of \$25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

“(d) FAILURE TO RETAIN COPY OR LIST.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(b) with respect to such return or claim shall pay a penalty of \$50 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$25,000.

“(e) FAILURE TO FILE CORRECT INFORMATION RETURN.—Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of—

“(1) \$100 for each failure to file a return as required under such section, and

“(2) \$5 for each failure to set forth an item in the return as required under such section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$20,000.

“(f) NEGOTIATION OF CHECK.—Any person who is an income tax return preparer who endorses or otherwise negotiates (directly or through an agent) any check made in respect of the taxes imposed by subtitle A which is issued to a taxpayer (other than the income tax return preparer) shall pay a penalty of \$500 with respect to each such check.

26 USC 1.

"SEC. 6696. RULES APPLICABLE WITH RESPECT TO SECTIONS 6694 AND 6695. 26 USC 6696.

"(a) **PENALTIES TO BE ADDITIONAL TO ANY OTHER PENALTIES.**—The penalties provided by section 6694 and 6695 shall be in addition to any other penalties provided by law. *Ante*, p. 1689.
Post, p. 1878.

"(b) **DEFICIENCY PROCEDURES NOT TO APPLY.**—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply with respect to the assessment or collection of the penalties provided by sections 6694 and 6695. *Ante*, p. 1692.
26 USC 6211.

"(c) **PROCEDURE FOR CLAIMING REFUND.**—Any claim for credit or refund of any penalty paid under section 6694 or 6695 shall be filed in accordance with regulations prescribed by the Secretary. Regulations.

"(d) **PERIODS OF LIMITATION.**—

"(1) **ASSESSMENT.**—The amount of any penalty under section 6694(a) or under section 6695 shall be assessed within 3 years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. In the case of any penalty under section 6694(b), the penalty may be assessed, or a proceeding in court for the collection of the penalty may be begun without assessment, at any time.

"(2) **CLAIM FOR REFUND.**—Except as provided in section 6694(d), any claim for refund of an overpayment of any penalty assessed under section 6694 or 6695 shall be filed within 3 years from the time the penalty was paid.

"(e) **DEFINITIONS.**—For purposes of sections 6694 and 6695—

"(1) **RETURN.**—The term 'return' means any return of any tax imposed by subtitle A.

"(2) **CLAIM FOR REFUND.**—The term 'claim for refund' means a claim for refund of, or credit against, any tax imposed by subtitle A."

(g) **AUTHORITY TO SEEK INJUNCTION AGAINST INCOME TAX RETURN PREPARERS.**—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7407 as section 7408 and by inserting after section 7406 the following new section:

"SEC. 7407. ACTION TO ENJOIN INCOME TAX RETURN PREPARERS. 26 USC 7407.

"(a) **AUTHORITY TO SEEK INJUNCTION.**—Except as provided in subsection (c), a civil action in the name of the United States to enjoin any person who is an income tax return preparer from further engaging in any conduct described in subsection (b) or from further acting as an income tax return preparer may be commenced at the request of the Secretary. Any action under this section shall be brought in the District Court of the United States for the district in which the income tax preparer resides or has his principal place of business or in which the taxpayer with respect to whose income tax return the action is brought resides. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such income tax preparer or any taxpayer.

"(b) **ADJUDICATION AND DECREES.**—In any action under subsection (a), if the court finds—

"(1) that an income tax return preparer has—

"(A) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title,

“(B) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as an income tax return preparer,
 “(C) guaranteed the payment of any tax refund or the allowance of any tax credit, or

“(D) engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws, and

“(2) that injunctive relief is appropriate to prevent the recurrence of such conduct,
 the court may enjoin such person from further engaging in such conduct. If the court finds that an income tax return preparer has continually or repeatedly engaged in any conduct described in subparagraphs (A) through (D) of this subsection and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, the court may enjoin such person from acting as an income tax return preparer.

“(c) **BOND TO STAY INJUNCTION.**—No action to enjoin under subsection (b)(1)(A) shall be commenced or pursued with respect to any income tax return preparer who files and maintains, with the Secretary in the internal revenue district in which is located such preparer's legal residence or principal place of business, a bond in a sum of \$50,000 as surety for the payment of penalties under section 6694 and 6695.”

Ante, p. 1689;
Post, p. 1878;
Ante, p. 1692.
 26 USC 6503.

(h) **CROSS REFERENCES.**—

(1) Section 6503(h), as redesignated by this Act, is amended by adding at the end thereof the following new paragraph:

“(4) **Income tax return preparers, see section 6694(c)(3).**”

26 USC 6504.

(2) Section 6504, as amended by this Act, is amended by adding at the end thereof the following new paragraph:

“(11) **Assessment of civil penalties under section 6694 or 6695, see section 6696(d)(1).**”

26 USC 6511.

(3) Section 6511(g) is amended by adding at the end thereof the following new paragraph:

“(7) **For a period of limitations for refund of an overpayment of penalties imposed under section 6694 or 6695, see section 6696(d)(2).**”

(i) **CONFORMING AMENDMENTS.**—

(1) The table of subparts for part III of such chapter A of chapter 61 is amended by adding at the end thereof the following new item:

“Subpart F. Information concerning income tax return preparers.”

(2) The table of sections for subchapter B of chapter 61 is amended by inserting immediately after the item relating to section 6106 the following new item:

“Sec. 6107. Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list.”

(3) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new items:

“Sec. 6694. Understatement of taxpayer's liability by income tax return preparer.

“Sec. 6695. Other assessable penalties with respect to the preparation of income tax returns for other persons.

“Sec. 6696. Rules applicable with respect to sections 6694 and 6695.”

(4) The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 7407. Action to enjoin income tax return preparers.

“Sec. 7408. Cross references.”

(j) **EFFECTIVE DATE.**—The amendments made by this section shall apply to documents prepared after December 31, 1976.

26 USC 7701
note.

SEC. 1204. JEOPARDY AND TERMINATION ASSESSMENTS.

(a) **REVIEW OF JEOPARDY AND TERMINATION ASSESSMENTS.**—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7428 the following new section:

“SEC. 7429. REVIEW OF JEOPARDY ASSESSMENT PROCEDURES.

26 USC 7429.

“(a) ADMINISTRATIVE REVIEW.—

“(1) **INFORMATION TO TAXPAYER.**—Within 5 days after the day on which an assessment is made under section 6851(a), 6861(a), or 6862, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relies in making such assessment.

“(2) **REQUEST FOR REVIEW.**—Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph (1), or within 30 days after the last day of the period within which such statement is required to be furnished, the taxpayer may request the Secretary to review the action taken.

“(3) **REDETERMINATION BY SECRETARY.**—After a request for review is made under paragraph (2), the Secretary shall determine whether or not—

“(A) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

“(B) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances.

“(b) JUDICIAL REVIEW.—

“(1) **ACTIONS PERMITTED.**—Within 30 days after the earlier of—

“(A) the day the Secretary notifies the taxpayer of his determination described in subsection (a) (3), or

“(B) the 16th day after the request described in subsection (a) (2) was made,

the taxpayer may bring a civil action against the United States in a district court of the United States for a determination under this subsection.

“(2) **DETERMINATION BY DISTRICT COURT.**—Within 20 days after an action is commenced under paragraph (1), the district court shall determine whether or not—

“(A) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

“(B) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862, is appropriate under the circumstances.

“(3) **ORDER OF DISTRICT COURT.**—If the court determines that the making of such assessment is unreasonable or that the amount assessed or demanded is inappropriate, the court may order the Secretary to abate such assessment, to redetermine (in whole or

in part) the amount assessed or demanded, or to take such other action as the court finds appropriate.

“(c) **EXTENSION OF 20-DAY PERIOD WHERE TAXPAYER SO REQUESTS.**—If the taxpayer requests an extension of the 20-day period set forth in subsection (b) (2) and establishes reasonable grounds why such extension should be granted, the district court may grant an extension of not more than 40 additional days.

“(d) **COMPUTATION OF DAYS.**—For purposes of this section, Saturday, Sunday, or a legal holiday in the District of Columbia shall not be counted as the last day of any period.

“(e) **VENUE.**—A civil action under subsection (b) shall be commenced only in the judicial district described in section 1402(a) (1) or (2) of title 28, United States Code.

“(f) **FINALITY OF DETERMINATION.**—Any determination made by a district court under this section shall be final and conclusive and shall not be reviewed by any other court.

“(g) **BURDEN OF PROOF.**—

“(1) **REASONABLENESS OF TERMINATION OR JEOPARDY ASSESSMENT.**—In an action under subsection (b) involving the issue of whether the making of an assessment under section 6851, 6861, or 6862 is reasonable under the circumstances, the burden of proof in respect to such issue shall be upon the Secretary.

“(2) **REASONABLENESS OF AMOUNT OF ASSESSMENT.**—In an action under subsection (b) involving the issue of whether an amount assessed or demanded as a result of action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, the Secretary shall provide a written statement which contains any information with respect to which his determination of the amount assessed was based, but the burden of proof in respect of such issue shall be upon the taxpayer.”

(b) **JEOPARDY ASSESSMENT OF INCOME TAX.**—

(1) **TERMINATION ASSESSMENTS.**—So much of section 6851 (relating to termination of taxable year) as precedes subsection (c) is amended to read as follows:

26 USC 6851.

“**SEC. 6851. TERMINATION ASSESSMENTS OF INCOME TAX.**

“(a) **AUTHORITY FOR MAKING.**—

“(1) **IN GENERAL.**—If the Secretary finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act (including in the case of a corporation distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect the income tax for the current or the immediately preceding taxable year unless such proceeding be brought without delay, the Secretary shall immediately make a determination of tax for the current taxable year or for the preceding taxable year, or both, as the case may be, and notwithstanding any other provision of law, such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of the tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current taxable year or such preceding taxable year, or both, as the case may be, and shall cause notice of such determination and assessment to be given the taxpayer, together with a demand for immediate payment of such tax.

“(2) **COMPUTATION OF TAX.**—In the case of a current taxable year, the Secretary shall determine the tax for the period beginning on the first day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the taxpayer, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

“(3) **TREATMENT OF AMOUNTS COLLECTED.**—Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of tax for such taxable year.

“(4) **THIS SECTION INAPPLICABLE WHERE SECTION 6861 APPLIES.**—This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the taxpayer's return for such taxable year (determined with regard to any extensions).

“(b) **NOTICE OF DEFICIENCY.**—If an assessment of tax is made under the authority of subsection (a), the Secretary shall mail a notice under section 6212(a) for the taxpayer's full taxable year (determined without regard to any action taken under subsection (a)) with respect to which such assessment was made within 60 days after the later of (i) the due date of the taxpayer's return for such taxable year (determined with regard to any extensions), or (ii) the date such taxpayer files such return. Such deficiency may be in an amount greater or less than the amount assessed under subsection (a).”

(2) **BONDS.**—Section 6851 is amended by striking out subsection 26 USC 6851.

(e) (relating to bonds) and inserting in lieu thereof the following:

“(e) **SECTIONS 6861 (f) AND (g) TO APPLY.**—The provisions of section 6861(f) (relating to collection of unpaid amounts) and 6861(g) (relating to abatement if jeopardy does not exist) shall apply with respect to any assessment made under subsection (a).

“(f) **CROSS REFERENCES.**—

“(1) For provisions permitting immediate levy in case of jeopardy, see section 6331(a).

“(2) For provisions relating to the review of jeopardy, see section *Ante*, p. 1695.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) Section 1346(e) of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant) is amended by inserting “or section 7429” immediately after “section 7426”.

(2) Section 443(a)(3) (relating to returns for terminated 26 USC 443.
period) is repealed.

(3) Section 6091(b) (relating to place for filing returns) is 26 USC 6091.
amended—

(A) by striking out “and” at the end of paragraph (1) (B) (iii) thereof, and by striking out paragraph (1) (B) (iv) and the matter following such paragraph and inserting in lieu thereof the following:

“(iv) nonresident alien persons, and

Regulations.

“(v) persons with respect to whom an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year, shall be made at such place as the Secretary may by regulations designate.”; and

(B) by striking out “and” at the end of paragraph (2) (B) (ii), and by striking out paragraph (2) (B) (iii) and the

matter following such paragraph and inserting in lieu thereof the following:

Regulations.

“(iii) foreign corporations, and

“(iv) corporations with respect to which an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year, shall be made at such place as the Secretary may by regulations designate.”

26 USC 6211.

(4) Section 6211(b)(1) (relating to rules for determining deficiencies) is amended by striking out “and” after “31,” and by inserting before the period at the end thereof the following: “, and without regard to any credits resulting from the collection of amounts assessed under section 6851 (relating to termination assessments)”.

26 USC 6212.

(5) Section 6212(c) (relating to restrictions on further deficiency letters) is amended by inserting after “errors,” the following: “in section 6851 (relating to termination assessments),”.

26 USC 6313.

(6) Section 6213(a) (relating to time for filing petition with the Tax Court) is amended by inserting “section 6851 or” before “section 6861”.

26 USC 6863.

(7) Section 6863(a) (relating to bond to stay collection) is amended—

(A) by striking out “6861” and inserting in lieu thereof “6851, 6861,”;

(B) by striking out “a jeopardy assessment” in the first sentence thereof and inserting in lieu thereof “an assessment”; and

(C) by striking out “the jeopardy assessment” each place it appears therein and inserting in lieu thereof “such assessment”.

(8) Section 6863(b)(3)(A) (relating to stay of sale of seized property) is amended to read as follows:

“(A) GENERAL RULE.—Where, notwithstanding the provisions of section 6213(a), an assessment has been made under section 6851 or 6861, the property seized for collection of the tax shall not be sold—

“(i) before the expiration of the periods described in subsection (c)(1) (A) and (B),

“(ii) before the issuance of the notice of deficiency described in section 6851(b) or 6861(b), and the expiration of the period provided in section 6213(a) for filing a petition with the Tax Court, and

“(iii) if a petition is filed with the Tax Court (whether before or after the making of such assessment), before the expiration of the period during which the assessment of the deficiency would be prohibited if neither sections 6851(a) nor 6861(a) were applicable.

Clauses (ii) and (iii) shall not apply in the case of a termination assessment under section 6851 if the taxpayer does not file a return for the taxable year by the due date (determined with regard to any extensions).”

(9) Section 6863 (relating to stay of collection of jeopardy assessments) is amended by adding at the end thereof the following new subsection:

“(C) STAY OF SALE OF SEIZED PROPERTY PENDING DISTRICT COURT DETERMINATION UNDER SECTION 7429.—

“(1) **GENERAL RULE.**—Where a jeopardy assessment has been made under section 6862(a), the property seized for the collection of the tax shall not be sold—

“(A) if a civil action is commenced in accordance with section 7429(b), on or before the day on which the district court judgment in such action becomes final, or *Ante*, p. 1695.

“(B) if subparagraph (A) does not apply, before the day after the expiration of the period provided in section 7429(a) for requesting an administrative review, and if such review is requested, before the day after the expiration of the period provided in section 7429(b), for commencing an action in the district court.

“(2) **EXCEPTIONS.**—With respect to any property described in paragraph (1), the exceptions provided by subsection (b)(3) (B) shall apply.”

(10) Section 7103(a)(4) (relating to a cross reference) is repealed. 26 USC 7103.

(11) Section 7421(a) (relating to prohibition of suits to restrain assessment or collection of taxes) is amended by striking out “and 7426 (a) and (b)(1)” and inserting in lieu thereof “7426 (a) and (b)(1), and 7429(b)”. 26 USC 7421.

(12) The table of sections for part I of subchapter A of chapter 70 is amended to read as follows:

“Sec. 6851. Termination assessments of income tax.”

(13) The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7428 the following:

“Sec. 7429. Review of jeopardy assessment procedures.”

(d) **EFFECTIVE DATE.**—The amendments made by this section apply with respect to action taken under section 6851, 6861, or 6862 of the Internal Revenue Code of 1954 where the notice and demand takes place after December 31, 1976. 26 USC 6851 note.

SEC. 1205. ADMINISTRATIVE SUMMONS.

(a) **REQUIREMENT THAT NOTICE BE SERVED ON PERSON WHOSE BOOKS, ETC., ARE BEING SUMMONED.**—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7609 as section 7611 and by inserting after section 7608 the following new sections:

“**SEC. 7609. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.** 26 USC 7609.

“(a) **NOTICE.**—

“(1) **IN GENERAL.**—If—

“(A) any summons described in subsection (c) is served on any person who is a third-party recordkeeper, and

“(B) the summons requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person summoned) who is identified in the description of the records contained in the summons,

then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 14th day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under subsection (b)(2).

26 USC 7603.

“(2) SUFFICIENCY OF NOTICE.—Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

“(3) THIRD-PARTY RECORDKEEPER DEFINED.—For purposes of this subsection, the term ‘third-party recordkeeper’ means—

“(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

“(B) any consumer reporting agency (as defined under section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

“(C) any person extending credit through the use of credit cards or similar devices;

“(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

“(E) any attorney; and

“(F) any accountant.

“(4) EXCEPTIONS.—Paragraph (1) shall not apply to any summons—

“(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

“(B) to determine whether or not records of the business transactions or affairs of an identified person have been made or kept, or

“(C) described in subsection (f).

“(5) NATURE OF SUMMONS.—Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(B)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

“(b) RIGHT TO INTERVENE; RIGHT TO STAY COMPLIANCE.—

“(1) INTERVENTION.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

“(2) RIGHT TO STAY COMPLIANCE.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to stay compliance with the summons if, not later than the 14th day after the day such notice is given in the manner provided in subsection (a) (2)—

“(A) notice in writing is given to the person summoned not to comply with the summons, and

“(B) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in subsection (a) (1).

“(c) **SUMMONS TO WHICH SECTION APPLIES.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), a summons is described in this subsection if it is issued under paragraph (2) of section 7602 or under section 6420(e) (2), 6421(f) (2), 6424(d) (2), or 6427(e) (2) and requires the production of records.

26 USC 7602,
6420, 6421,
6424, 6427.

“(2) **EXCEPTIONS.**—A summons shall not be treated as described in this subsection if—

“(A) it is solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in subsection (a) (3) (A), or

“(B) it is in aid of the collection of—

“(i) the liability of any person against whom an assessment has been made or judgment rendered, or

“(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i).

“(3) **RECORDS; CERTAIN RELATED TESTIMONY.**—For purposes of this section—

“(A) the term ‘records’ includes books, papers, or other data, and

“(B) a summons requiring the giving of testimony relating to records shall be treated as a summons requiring the production of such records.

“(d) **RESTRICTION ON EXAMINATION OF RECORDS.**—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

“(1) before the expiration of the 14-day period allowed for the notice not to comply under subsection (b) (2), or

“(2) when the requirements of subsection (b) (2) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

“(e) **SUSPENSION OF STATUTE OF LIMITATIONS.**—If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

“(f) **ADDITIONAL REQUIREMENT IN THE CASE OF A JOHN DOE SUMMONS.**—Any summons described in subsection (c) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that—

“(1) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

"(2) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

"(3) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

"(g) **SPECIAL EXCEPTION FOR CERTAIN SUMMONSES.**—In the case of any summons described in subsection (c), the provisions of subsections (a) (1) and (b) shall not apply if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

"(h) **JURISDICTION OF DISTRICT COURT.**—

"(1) The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine proceedings brought under subsections (f) or (g). The determinations required to be made under subsections (f) and (g) shall be made *ex parte* and shall be made solely upon the petition and supporting affidavits. An order denying the petition shall be deemed a final order which may be appealed.

"(2) Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.

26 USC 7610.
Regulations.

"SEC. 7610. FEES AND COSTS FOR WITNESSES.

"(a) **IN GENERAL.**—The Secretary shall by regulations establish the rates and conditions under which payment may be made of—

"(1) fees and mileage to persons who are summoned to appear before the Secretary, and

"(2) reimbursement for such costs that are reasonably necessary which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by summons.

"(b) **EXCEPTIONS.**—No payment may be made under paragraph (2) of subsection (a) if—

"(1) the person with respect to whose liability the summons is issued has a proprietary interest in the books, papers, records or other data required to be produced, or

"(2) the person summoned is the person with respect to whose liability the summons is issued or an officer, employee, agent, accountant, or attorney of such person who, at the time the summons is served, is acting as such.

"(c) **SUMMONS TO WHICH SECTION APPLIES.**—This section applies with respect to any summons authorized under section 6420(e) (2), 6421(f) (2), 6424(d) (2), 6427(e) (2), or 7602."

(b) **CLERICAL AMENDMENT.**—The table of sections for such subchapter A is amended by striking out the item relating to section 7609 and inserting in lieu thereof the following:

"Sec. 7609. Special procedures for third-party summonses.

"Sec. 7610. Fees and costs for witnesses.

"Sec. 7611. Cross references."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to any summons issued after December 31, 1976. 26 USC 7609 note.

SEC. 1206. ASSESSMENTS IN CASE OF MATHEMATICAL OR CLERICAL ERRORS.

(a) **IN GENERAL.**—Section 6213(b) (relating to exceptions to restrictions on assessment in certain cases) is amended— 26 USC 6213.

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) **ASSESSMENTS ARISING OUT OF MATHEMATICAL OR CLERICAL ERRORS.**—If the taxpayer is notified that, on account of a mathematical or clerical error appearing on the return, an amount of tax in excess of that shown on the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical or clerical error, such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6212(c) (1) (restricting further deficiency letters), or of section 6512(a) (prohibiting credits or refunds after petition to the Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section. Each notice under this paragraph shall set forth the error alleged and an explanation thereof.

"(2) **ABATEMENT OF ASSESSMENT OF MATHEMATICAL OR CLERICAL ERRORS.**—

"(A) **REQUEST FOR ABATEMENT.**—Notwithstanding section 6404(b), a taxpayer may file with the Secretary within 60 days after notice is sent under paragraph (1) a request for an abatement of any assessment specified in such notice, and upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by this subchapter.

"(B) **STAY OF COLLECTION.**—In the case of any assessment referred to in paragraph (1), notwithstanding paragraph (1), no levy or proceeding in court for the collection of such assessment shall be made, begun, or prosecuted during the period in which such assessment may be abated under this paragraph."

(b) **DEFINITIONS RELATING TO MATHEMATICAL OR CLERICAL ERRORS.**—Section 6213 is amended by redesignating subsection (f) as subsection (g), and by inserting immediately after subsection (e) the following new subsection: 26 USC 6213.

"(f) **DEFINITIONS.**—For purposes of this section—

"(1) **RETURN.**—The term 'return' includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by subtitle A or B, or chapter 42 or 43.

"(2) **MATHEMATICAL OR CLERICAL ERROR.**—The term 'mathematical or clerical error' means—

26 USC 1, 2001.
26 USC 4940,
4971.

“(A) an error in addition, subtraction, multiplication, or division shown on any return,

“(B) an incorrect use of any table provided by the Internal Revenue Service with respect to any return if such incorrect use is apparent from the existence of other information on the return,

“(C) an entry on a return of an item which is inconsistent with another entry of the same or another item on such return,

“(D) an omission of information which is required to be supplied on the return to substantiate an entry on the return, and

“(E) an entry on a return of a deduction or credit in an amount which exceeds a statutory limit imposed by subtitle A or B, or chapter 42 or 43, if such limit is expressed—

“(i) as a specified monetary amount, or

“(ii) as a percentage, ratio, or fraction,

and if the items entering into the application of such limit appear on such return.”

(c) **TECHNICAL AND CONFORMING AMENDMENTS.—**

26 USC 6213.

(1) Section 6213(b)(3) (relating to assessments arising out of tentative carryback adjustments), as redesignated by subsection (a), is amended—

(A) by striking out “he may assess” and inserting in lieu thereof “he may assess without regard to the provisions of paragraph (2)”, and

(B) by striking out “mathematical error” and inserting in lieu thereof “mathematical or clerical error”.

26 USC 6201.

(2) Section 6201(a)(3) (relating to assessments regarding erroneous income tax prepayment credits) and section 6201(a)(4) (relating to assessments regarding erroneous credit under section 39 or 43) are each amended—

(A) by striking out “mathematical error” and inserting in lieu thereof “mathematical or clerical error”, and

(B) by inserting immediately before the period at the end thereof the following: “, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph”.

26 USC 6212.

(3) Section 6212(c)(1) (relating to deficiency letters) is amended by striking out “(relating to mathematical errors)” and inserting in lieu thereof “(relating to mathematical or clerical errors)”.

26 USC 6213
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to returns (within the meaning of section 6213(f)(1) of the Internal Revenue Code of 1954) filed after December 31, 1976.

SEC. 1207. WITHHOLDING.

(a) **WITHHOLDING STATE AND DISTRICT INCOME TAXES FROM COMPENSATION OF MEMBERS OF ARMED FORCES WHO ARE RESIDENTS OF THE STATE OR DISTRICT OF COLUMBIA.—**

(1) **WITHHOLDING OF STATE INCOME TAXES.**—The last sentence of section 5517(a) of title 5, United States Code, is amended to read as follows: “In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting ‘who are residents of the State with which the agree-

ment is made' for 'whose regular place of Federal employment is within the State with which the agreement is made'."

(2) **WITHHOLDING OF DISTRICT INCOME TAXES.**—Subsection (a) of section 5516 of title 5, United States Code, is amended—

(A) by striking out in the third sentence "pay for service as a member of the armed forces, or to"; and

(B) by adding after the third sentence the following new sentence: "In the case of pay for service as a member of the armed forces, the second sentence of this subsection shall be applied by substituting 'who are residents of the District of Columbia' for 'whose regular place of employment is within the District of Columbia'."

(b) **WITHHOLDING STATE AND CITY INCOME TAXES FROM THE COMPENSATION OF MEMBERS OF THE NATIONAL GUARD OR THE READY RESERVE.**—Section 5517 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For the purpose of this section and sections 5516 and 5520, the terms 'serve as a member of the armed forces' and 'service as a member of the Armed Forces' do not include—

Definitions.
5 USC 5516,
5520.

"(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

"(2) participation in scheduled drills or training periods, or service on active duty for training, under section 270(a) of title 10, United States Code, by a member of the Ready Reserve."

(c) **VOLUNTARY WITHHOLDING OF STATE INCOME TAXES FROM THE COMPENSATION OF FEDERAL EMPLOYEES.**—Paragraphs (1) and (2) of section 5517(a) of title 5, United States Code, are amended to read as follows:

"(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

"(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;"

(d) **WITHHOLDING TAX ON CERTAIN GAMBLING WINNINGS.**—Section 3402 (relating to income tax collected at source) is amended by adding at the end thereof the following new subsection:

26 USC 3402.

"(q) **EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.**—

"(1) **GENERAL RULE.**—Every person, including the Government of the United States, a State, or a political subdivision thereof, or any instrumentalities of the foregoing, making any payment of winnings which are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to 20 percent of such payment.

"(2) **EXEMPTION WHERE TAX OTHERWISE WITHHELD.**—In the case of any payment of winnings which are subject to withholding made to a nonresident alien individual or a foreign corporation, the tax imposed under paragraph (1) shall not apply to any such payment subject to tax under section 1441(a) (relating to withholding on nonresident aliens) or tax under section 1442(a) (relating to withholding on foreign corporations).

Definition.

"(3) WINNINGS WHICH ARE SUBJECT TO WITHHOLDING.—For purposes of this subsection, the term 'winnings which are subject to withholding' means proceeds from a wager determined in accordance with the following:

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), proceeds of more than \$1,000 from a wagering transaction, if the amount of such proceeds is at least 300 times as large as the amount wagered.

"(B) STATE-CONDUCTED LOTTERIES.—Proceeds of more than \$5,000 from a wager placed in a lottery conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such lottery, or with its authorized employees or agents.

"(C) SWEEPSTAKES, WAGERING POOLS, AND OTHER LOTTERIES.—Proceeds of more than \$1,000 from a wager placed in a sweepstakes, wagering pool, or lottery (other than a wager described in subparagraph (B)).

"(4) RULES FOR DETERMINING PROCEEDS FROM A WAGER.—For purposes of this subsection—

"(A) proceeds from a wager shall be determined by reducing the amount received by the amount of the wager, and

"(B) proceeds which are not money shall be taken into account at their fair market value.

"(5) EXEMPTION FOR BINGO, KENO, AND SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine, keno, and bingo.

"(6) STATEMENT BY RECIPIENT.—Every person who is to receive a payment of winnings which are subject to withholding shall furnish the person making such payment a statement, made under the penalties of perjury, containing the name, address, and taxpayer identification number of the person receiving the payment and of each person entitled to any portion of such payment.

"(7) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of winnings which are subject to withholding shall be treated as if they were wages paid by an employer to an employee."

(e) WITHHOLDING OF FEDERAL TAXES ON CERTAIN INDIVIDUALS ENGAGED IN FISHING.—

(1) IN GENERAL.—

26 USC 3403,
3404.
26 USC 6001,
7205.

26 USC 3121.

(A) Section 3121(b) (defining employment) is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding after paragraph (19) the following new paragraph:

"(20) service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

"(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

"(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal

life or a share of the proceeds from the sale of such catch, and

“(C) the amount of such individual’s share depends on the amount of the boat’s (or the boats’ in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.”

(B) Section 1402(c)(2) (defining trade or business) is amended by striking out “and” at the end of subparagraph (D), by striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof “, and”, and by adding after subparagraph (E) the following new subparagraph:

“(F) service described in section 3121(b)(20);”. *Ante*, p. 1706.

(C) Section 3401(a) (defining wages for purposes of withholding) is amended by striking out the period at the end of paragraph (16) and inserting in lieu thereof “; or”, and by adding after paragraph (16) the following new paragraph:

“(17) for service described in section 3121(b)(20).”

(2) CONFORMING AMENDMENTS.—

(A) Section 210(a) of the Social Security Act is amended by striking out “or” at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof “; or,” and by adding after paragraph (19) the following new paragraph:

“(20) Service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

“(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

“(B) such individual receives a share of the boat’s (or the boats’ in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

“(C) the amount of such individual’s share depends on the amount of the boat’s (or boats’ in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.”

(B) Section 211(c)(2) of such Act is amended by striking out “and” at the end of subparagraph (D), by striking out the semicolon at the end of subparagraph (E), and inserting in lieu thereof “, and” and by adding after subparagraph (E) the following new paragraph:

“(F) service described in section 210(a)(20);”.

(3) REPORTING REQUIREMENT.—

(A) Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other

persons) is amended by adding at the end thereof the following new section:

26 USC 6050A. **"SEC. 6050A. REPORTING REQUIREMENTS OF CERTAIN FISHING BOAT OPERATORS.**

Ante, p. 1706. **"(a) REPORTS.**—The operator of a boat on which one or more individuals, during a calendar year, perform services described in section 3121(b) (20) shall submit to the Secretary (at such time, and in such manner and form, as the Secretary shall by regulations prescribe) information respecting—

"(1) the identity of each individual performing such services;

"(2) the percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of such catches;

"(3) if such individual receives his share in kind, the type and weight of such share, together with such other information as the Secretary may prescribe by regulations reasonably necessary to determine the value of such share; and

"(4) if such individual receives a share of the proceeds of such catches, the amount so received.

"(b) WRITTEN STATEMENT.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing the information relating to such person contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

26 USC 6652.

Supra. (B) Section 6652(b) (relating to failure to file certain information returns) is amended by inserting after "withheld)," the following: "in the case of each failure to make a return required by section 6050A(a) (relating to reporting requirements of certain fishing boat operators)."

(C) Section 6652(b) is further amended by inserting after "tips)," the following: "or section 6050A(b) (relating to statements furnished by certain fishing boat operators)."

(f) **EFFECTIVE DATES.**—

5 USC 5516
note.

(1) **SUBSECTION (a).**—The amendments made by subsection (a) shall apply to wages withheld after the 120-day period following any request for an agreement after the date of the enactment of this Act.

5 USC 5517
note.

(2) **SUBSECTIONS (b) AND (c).**—The amendments made by subsections (b) and (c) shall apply to wages withheld after the 120-day period following the date of the enactment of this Act.

26 USC 3402
note.

(3) **SUBSECTION (d).**—The amendments made by subsection (d) shall apply to payments of winnings made after the 90th day after the date of the enactment of this Act.

26 USC 3121
note.

(4) **SUBSECTION (e).**—

(A) The amendments made by paragraphs (1)(A) and (2)(A) of subsection (e) shall apply to services performed after December 31, 1971. The amendments made by paragraphs (1)(B), (1)(C), and (2)(B) of such subsection shall apply to taxable years ending after December 31, 1971. The amendments made by paragraph (3) of such subsection shall apply to calendar years beginning after the date of the enactment of this Act.

(B) Notwithstanding subparagraph (A), if the owner or operator of any boat treated a share of the boat's catch of fish

or other aquatic animal life (or a share of the proceeds therefrom) received by an individual after December 31, 1971, and before the date of the enactment of this Act for services performed by such individual after December 31, 1971, on such boat as being subject to the tax under chapter 21 of the Internal Revenue Code of 1954, then the amendments made by paragraphs (1) (A) and (B) and (2) of subsection (e) shall not apply with respect to such services performed by such individual (and the share of the catch, or proceeds therefrom, received by him for such services).

26 USC 3101.

SEC. 1208. STATE-CONDUCTED LOTTERIES.

(a) **EXEMPTION FROM WAGERING TAX.**—Paragraph (3) of section 4402 (relating to State-conducted sweepstakes) is amended to read as follows:

26 USC 4402.

“(3) **STATE-CONDUCTED LOTTERIES, ETC.**—On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents.”

(b) **EXEMPTION FROM OCCUPATIONAL TAX ON COIN-OPERATED DEVICES.**—Section 4462(b) (relating to exclusions from definition of coin-operated gaming devices) is amended—

26 USC 4462.

(1) by striking out “or” at the end of paragraph (1),
(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; or”, and

(3) by adding at the end thereof the following new paragraph:

“(3) a vending machine which—

“(A) dispenses tickets on a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, and

“(B) is maintained by the State agency conducting such sweepstakes, wagering pool, or lottery, or by its authorized employees or agents.”

(c) **EFFECTIVE DATES.**—

(1) The amendment made by subsection (a) shall apply with respect to wagers placed after March 10, 1964.

26 USC 4402 note.

(2) The amendments made by subsection (b) shall apply with respect to periods after March 10, 1964.

26 USC 4462 note.

SEC. 1209. MINIMUM EXEMPTION FROM LEVY FOR WAGES, SALARY, AND OTHER INCOME.

(a) **GENERAL RULE.**—Subsection (a) of section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

26 USC 6334.

“(9) **MINIMUM EXEMPTION FOR WAGES, SALARY, AND OTHER INCOME.**—Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d).”

(b) **DETERMINATION OF EXEMPT AMOUNT.**—Section 6334 is amended by adding at the end thereof the following new subsection:

“(d) **EXEMPT AMOUNT OF WAGES, SALARY, OR OTHER INCOME.**—

“(1) **INDIVIDUALS ON WEEKLY BASIS.**—In the case of an individual who is paid or receives all of his wages, salary, and other in-

come on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be—

“(A) \$50, plus

“(B) \$15 for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Secretary shall prescribe by regulations and—

“(i) over half of whose support for the payroll period was received from the taxpayer,

“(ii) who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) through (9) of section 152(a) (relating to definition of dependents), and

“(iii) who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under subsection (a)(8) for the payroll period.

For purposes of subparagraph (B)(ii) of the preceding sentence, ‘payroll period’ shall be substituted for ‘taxable year’ each place it appears in paragraph (9) of section 152(a).

Regulations.

“(2) INDIVIDUALS ON BASIS OTHER THAN WEEKLY.—In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a)(9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis.”

(c) CONFORMING AMENDMENT.—The paragraph heading for paragraph (8) of section 6334(a) is amended to read as follows:

“(8) JUDGMENTS FOR SUPPORT OF MINOR CHILDREN.—”

(d) LEVY ON WAGES, ETC., TO BE CONTINUING.—

26 USC 6331.

(1) Subsection (d) of section 6331 (relating to levy on salaries and wages) is amended by adding at the end thereof the following new paragraph:

“(3) CONTINUING LEVY ON SALARY AND WAGES.—

“(A) EFFECT OF LEVY.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

“(B) RELEASE AND NOTICE OF RELEASE.—With respect to a levy described in subparagraph (A), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released.”

(2) The second sentence of section 6331(b) (relating to seizure and sale of property) is amended by striking out “A levy” and inserting in lieu thereof “Except as otherwise provided in subsection (d)(3), a levy”.

(3) The first sentence of section 6332(c)(1) (relating to enforcement of levy) is amended by striking out “from the date of such levy” and inserting in lieu thereof “from the date of such levy”

26 USC 6332.

(or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer)". *Ante*, p. 1710.

(4) Paragraph (1) of section 6331(d) (relating to levy on salaries and wages) is amended by striking out the last sentence. 26 USC 6331.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to levies made after December 31, 1976. 26 USC 6334 note.

SEC. 1210. JOINT COMMITTEE REFUND CASES.

(a) IN GENERAL.—Section 6405(a) (relating to reports of refunds and credits) is amended to read as follows: 26 USC 6405.

"(a) BY TREASURY TO JOINT COMMITTEE.—No refund or credit of any income, war profits, excess profits, estate, or gift tax, or any tax imposed with respect to private foundations and pension plans under chapters 42 and 43, in excess of \$200,000 shall be made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Secretary, is submitted to the Joint Committee on Taxation." 26 USC 4940, 4971.

(b) TENTATIVE REFUNDS.—Section 6405(c) is amended by striking out "\$100,000" and inserting in lieu thereof "\$200,000".

(c) AUDIT.—Section 8023(a) (relating to powers to obtain information from the Internal Revenue Service) is amended by adding at the end thereof the following new sentence: "In the investigation by the Joint Committee on Taxation of the administration of the internal revenue taxes by the Internal Revenue Service, the Chief of Staff of the Joint Committee on Taxation is authorized to secure directly from the Internal Revenue Service such tax returns, or copies of tax returns, and other relevant information, as the Chief of Staff deems necessary for such investigation, and the Internal Revenue Service is authorized and directed to furnish such tax returns and information to the Chief of Staff together with a brief report, with respect to each return, as to any action taken or proposed to be taken by the Service as a result of any audit of the return." 26 USC 8023.

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of the enactment of this Act under subsection (a) or (c) of section 6405 of the Internal Revenue Code of 1954. 26 USC 6405 note.

(2) The amendment made by subsection (c) shall take effect on January 1, 1977. 26 USC 8023 note.

SEC. 1211. SOCIAL SECURITY ACCOUNT NUMBERS.

(a) Section 208(g) of the Social Security Act is amended, in the matter preceding clause (1) thereof, by striking out "entitled—" and inserting in lieu thereof "entitled, or for any other purpose—". 42 USC 408.

(b) Section 205(c)(2) of such Act is amended by adding at the end thereof the following new subparagraphs: 42 USC 405.

"(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law, and may require any individ-

ual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Secretary.

“(ii) If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (i) of this subparagraph, such provision shall, on and after the date of the enactment of this subparagraph, be null, void, and of no effect.

“(iii) For purposes of clause (i) of this subparagraph, an agency of a State (or political subdivision thereof) charged with the administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from an agency operating pursuant to the provisions of part A or D of title IV of the Social Security Act.

“(iv) For purposes of this subparagraph, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.”

(c) Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

“(d) **USE OF SOCIAL SECURITY ACCOUNT NUMBER.**—The social security account number issued to an individual for purposes of section 205(c)(2)(A) of the Social Security Act shall, except as shall otherwise be specified under regulations of the Secretary, be used as the identifying number for such individual for purposes of this title.”

(d)(1) Section 208 of the Social Security Act is amended by inserting after subsection (g) the following new subsection:

“(h) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States;”

(2) section 208(g)(2) of such Act is amended by adding “or” at the end thereof.

SEC. 1212. ABATEMENT OF INTEREST WHEN RETURN IS PREPARED FOR TAXPAYER BY THE INTERNAL REVENUE SERVICE.

(a) **IN GENERAL.**—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

“(d) **ASSESSMENTS ATTRIBUTABLE TO CERTAIN MATHEMATICAL ERRORS BY INTERNAL REVENUE SERVICE.**—In the case of an assessment of any tax imposed by chapter 1 attributable in whole or in part to a mathematical error described in section 6213(f)(2)(A), if the return was prepared by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in the preparation of income tax returns, the Secretary is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the 30th day following the date of notice and demand by the Secretary for payment of the deficiency.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to returns filed for taxable years ending after the date of the enactment of this Act.

42 USC 601,
651.

“State.”

26 USC 6109.

Regulations.

42 USC 405.

42 USC 408.

26 USC 6404.

26 USC 6404
note.

TITLE XIII—TAX EXEMPT ORGANIZATIONS

SEC. 1301. DISPOSITION OF PRIVATE FOUNDATION PROPERTY UNDER TRANSITION RULES OF TAX REFORM ACT OF 1969.

(a) **IN GENERAL.**—Paragraph (2) of section 101(1) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended—

26 USC 4940
note.

- (1) by striking out “and” at the end of subparagraph (D);
- (2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof “; and”; and
- (3) by adding at the end thereof the following new subparagraph:

“(F) the sale, exchange, or other disposition (other than by lease) of property which is owned by a private foundation to a disqualified person if—

“(i) such foundation is leasing substantially all of such property under a lease to which subparagraph (C) applies.

“(ii) the disposition to such disqualified person occurs before January 1, 1978, and

“(iii) such foundation receives in return for the disposition to such disqualified person an amount which equals or exceeds the fair market value of such property at the time of the disposition or at the time (after June 30, 1976) a contract for the disposition was previously executed in a transaction which would not constitute a prohibited transaction (within the meaning of section 503(b) or any corresponding provision of prior law).”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to dispositions after the date of the enactment of this Act in taxable years ending after such date.

26 USC 4940
note.

SEC. 1302. NEW PRIVATE FOUNDATION SET-ASIDES.

(a) **IN GENERAL.**—Section 4942(g) (2) (relating to definition of qualifying distributions) is amended to read as follows:

26 USC 4942.

“(2) **CERTAIN SET-ASIDES.**—

“(A) **IN GENERAL.**—For all taxable years beginning on or after January 1, 1975, subject to such terms and conditions as may be prescribed by the Secretary, an amount set aside for a specific project which comes within one or more purposes described in section 170(c) (2) (B) may be treated as a qualifying distribution if it meets the requirements of subparagraph (B).

“(B) **REQUIREMENTS.**—An amount set aside for a specific project shall meet the requirements of this subparagraph if at the time of the set-aside the foundation establishes to the satisfaction of the Secretary that the amount will be paid for the specific project within 5 years, and either—

“(i) at the time of the set-aside the private foundation establishes to the satisfaction of the Secretary that the project is one which can better be accomplished by such set-aside than by immediate payment of funds, or

“(ii) (I) the project will not be completed before the end of the taxable year of the foundation in which the set-aside is made,

“(II) the private foundation in each taxable year beginning after December 31, 1975 (or after the end of the fourth taxable year following the year of its creation, whichever is later), distributes amounts, in cash or its equivalent, equal to not less than the distributable amount determined under subsection (d) (without regard to subsection (i)) for purposes described in section 170(c)(2)(B) (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in one or more prior years), and

“(III) the private foundation has distributed (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in one or more prior years) during the four taxable years immediately preceding its first taxable year beginning after December 31, 1975, or the fifth taxable year following the year of its creation, whichever is later, an aggregate amount, in cash or its equivalent, of not less than the sum of the following: 80 percent of the first preceding taxable year's distributable amount; 60 percent of the second preceding taxable year's distributable amount; 40 percent of the third preceding taxable year's distributable amount; and 20 percent of the fourth preceding taxable year's distributable amount.

“(C) CERTAIN FAILURES TO DISTRIBUTE.—If, for any taxable year to which clause (ii)(II) of subparagraph (B) applies, the private foundation fails to distribute in cash or its equivalent amounts not less than those required by such clause and—

“(i) the failure to distribute such amounts was not willful and was due to reasonable cause, and

“(ii) the foundation distributes an amount in cash or its equivalent which is not less than the difference between the amounts required to be distributed under clause (ii)(II) of subparagraph (B) and the amounts actually distributed in cash or its equivalent during that taxable year within the initial correction period provided in subsection (j)(2), such distribution in cash or its equivalent shall be treated for the purposes of this subparagraph as made during such year.

“(D) REDUCTION IN DISTRIBUTION AMOUNT.—If, during the taxable years in the adjustment period for which the organization is a private foundation, the foundation distributes amounts in cash or its equivalent which exceed the amount required to be distributed under clause (ii)(II) of subparagraph (B) (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in prior years), then for purposes of this subsection the distribution required under clause (ii)(II) of subparagraph (B) for the taxable year shall be reduced by an amount equal to such excess.

“(E) ADJUSTMENT PERIOD.—For purposes of subparagraph (D), with respect to any taxable year of a private foundation, the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after December 31, 1975, and immediately preceding the taxable year.

In the case of a set-aside which satisfies the requirements of clause (i) of subparagraph (B), for good cause shown, the period for paying the amount set aside may be extended by the Secretary.”

(b) STATUTE OF LIMITATIONS.—Subsection (n) of section 6501 (relating to limitations on assessments and collections) is amended by adding at the end thereof the following new paragraph:

“(3) CERTAIN SET-ASIDES DESCRIBED IN SECTION 4942(g)(2).—In the case of a deficiency attributable to the failure of an amount set aside by a private foundation for a specific project to be treated as a qualifying distribution under the provisions of section 4942(g)(2)(B)(i)(II), such deficiency may be assessed at any time before the expiration of 2 years after the expiration of the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1974. 26 USC 4942 note.

SEC. 1303. MINIMUM DISTRIBUTION AMOUNT FOR PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subsection (e) of section 4942 (relating to minimum investment return) is amended to read as follows: 26 USC 4942.

“(e) MINIMUM INVESTMENT RETURN.—

“(1) IN GENERAL.—For purposes of subsection (d), the minimum investment return for any private foundation for any taxable year is 5 percent of the excess of—

“(A) the aggregate fair market value of all assets of the foundation other than those which are used (or held for use) directly in carrying out the foundation’s exempt purpose, over

“(B) the acquisition indebtedness with respect to such assets (determined under section 514(c)(1) without regard to the taxable year in which the indebtedness was incurred).

“(2) VALUATION.—

“(A) IN GENERAL.—For purposes of paragraph (1)(A), the fair market value of securities for which market quotations are readily available shall be determined on a monthly basis. For all other assets, the fair market value shall be determined at such times and in such manner as the Secretary shall by regulations prescribe. Regulations.

“(B) REDUCTIONS IN VALUE FOR BLOCKAGE OR SIMILAR FACTORS.—In determining the value of any securities under this paragraph, the fair market value of such securities (determined without regard to any reduction in value) shall not be reduced unless, and only to the extent that, the private foundation establishes that as a result of—

“(i) the size of the block of such securities,

“(ii) the fact that the securities held are securities in a closely held corporation, or

“(iii) the fact that the sale of such securities would result in a forced or distress sale,

the securities could not be liquidated within a reasonable period of time except at a price less than such fair market value. Any reduction in value allowable under this subparagraph shall not exceed 10 percent of such fair market value.”

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1975. 26 USC 4942 note.

SEC. 1304. EXTENSION OF TIME TO AMEND CHARITABLE REMAINDER TRUST GOVERNING INSTRUMENT.

(a) EXTENSION OF TIME.—Section 2055(e)(3) (relating to the allowance of deductions in certain cases) is amended— 26 USC 2055.

(1) by striking out “September 21, 1974,” and inserting in lieu thereof “December 31, 1977,” and

(2) by striking out “December 31, 1975” each place it appears and inserting in lieu thereof “December 31, 1977”.

26 USC 2055
note.

Post, p. 1846.
26 USC 2055.

26 USC 2055
note.

26 USC 513.

Definitions.

(b) **EXTENSION OF PERIOD FOR FILING CLAIM FOR REFUND OF ESTATE TAX PAID.**—A claim for refund or credit of an overpayment of the tax imposed by section 2001 of the Internal Revenue Code of 1954 allowable under section 2055(e) (3) of such Code (as amended by subsection (a)) shall not be denied because of the expiration of the time for filing such a claim under section 6511(a) if such claim is filed not later than June 30, 1978.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply in the case of decedents dying after December 31, 1969.

SEC. 1305. UNRELATED TRADE OR BUSINESS INCOME OF TRADE SHOWS, STATE FAIRS, ETC.

(a) **IN GENERAL.**—Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

“(d) **CERTAIN ACTIVITIES OF TRADE SHOWS, STATE FAIRS, ETC.—**

“(1) **GENERAL RULE.**—The term ‘unrelated trade or business’ does not include qualified public entertainment activities of an organization described in paragraph (2) (C), or qualified convention and trade show activities of an organization described in paragraph (3) (C).

“(2) **QUALIFIED PUBLIC ENTERTAINMENT ACTIVITIES.**—For purposes of this subsection—

“(A) **PUBLIC ENTERTAINMENT ACTIVITY.**—The term ‘public entertainment activity’ means any entertainment or recreational activity of a kind traditionally conducted at fairs or expositions promoting agricultural and educational purposes, including, but not limited to, any activity one of the purposes of which is to attract the public to fairs or expositions or to promote the breeding of animals or the development of products or equipment.

“(B) **QUALIFIED PUBLIC ENTERTAINMENT ACTIVITY.**—The term ‘qualified public entertainment activity’ means a public entertainment activity which is conducted by a qualifying organization described in subparagraph (C) in—

“(i) conjunction with an international, national, State, regional, or local fair or exposition,

“(ii) accordance with the provisions of State law which permit the activity to be operated or conducted solely by such an organization, or by an agency, instrumentality, or political subdivision of such State, or

“(iii) accordance with the provisions of State law which permit such an organization to be granted a license to conduct not more than 20 days of such activity on payment to the State of a lower percentage of the revenue from such licensed activity than the State requires from organizations not described in section 501(c) (3), (4), or (5).

“(C) **QUALIFYING ORGANIZATION.**—For purposes of this paragraph, the term ‘qualifying organization’ means an organization which is described in section 501(c) (3), (4), or (5) which regularly conducts, as one of its substantial exempt purposes, an agricultural and educational fair or exposition.

“(3) **QUALIFIED CONVENTION AND TRADE SHOW ACTIVITIES.**—

“(A) **CONVENTION AND TRADE SHOW ACTIVITY.**—The term ‘convention and trade show activity’ means any activity of a kind traditionally conducted at conventions, annual meetings, or trade shows, including, but not limited to, any activity one

of the purposes of which is to attract persons in an industry generally (without regard to membership in the sponsoring organization) as well as members of the public to the show for the purpose of displaying industry products or to stimulate interest in, and demand for, industry products or services, or to educate persons engaged in the industry in the development of new products and services or new rules and regulations affecting the industry.

“(B) **QUALIFIED CONVENTION AND TRADE SHOW ACTIVITY.**—The term ‘qualified convention and trade show activity’ means a convention and trade show activity carried out by a qualifying organization described in subparagraph (C) in conjunction with an international, national, State, regional, or local convention, annual meeting, or show conducted by an organization described in subparagraph (C) if one of the purposes of such organization in sponsoring the activity is the promotion and stimulation of interest in, and demand for, the products and services of that industry in general, and the show is designed to achieve such purpose through the character of the exhibits and the extent of the industry products displayed.

“(C) **QUALIFYING ORGANIZATION.**—For purposes of this paragraph, the term ‘qualifying organization’ means an organization described in section 501(c) (5) or (6) which regularly conducts as one of its substantial exempt purposes a show which stimulates interest in, and demand for, the products of a particular industry or segment of such industry.

“(4) **SUCH ACTIVITIES NOT TO AFFECT EXEMPT STATUS.**—An organization described in section 501(c) (3), (4), or (5) shall not be considered as not entitled to the exemption allowed under section 501(a) solely because of qualified public entertainment activities conducted by it.”

(b) **EFFECTIVE DATES.**—The amendments made by subsection (a) apply to qualified public entertainment activities in taxable years beginning after December 31, 1962, and to qualified convention and trade show activities in taxable years beginning after the date of enactment of this Act.

26 USC 513
note.

SEC. 1306. DECLARATORY JUDGMENTS WITH RESPECT TO SECTION 501(c)(3) STATUS AND CLASSIFICATION.

(a) **GENERAL RULE.**—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7428 as 7430, and by inserting after section 7427 the following new section:

“SEC. 7428. DECLARATORY JUDGMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.

26 USC 7428.

“(a) **CREATION OF REMEDY.**—In a case of actual controversy involving—

“(1) a determination by the Secretary—

“(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (3) which is exempt from tax under section 501(a) or as an organization described in section 170(c) (2),

“(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)), or

26 USC 4942.

“(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), or

“(2) a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1), upon the filing of an appropriate pleading, the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Claims, as the case may be, and shall be reviewable as such.

“(b) LIMITATIONS.—

“(1) PETITIONER.—A pleading may be filed under this section only by the organization the qualification or classification of which is at issue.

“(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection (a)(1) shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

“(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination with respect to an issue referred to in subsection (a)(1) to the organization referred to in paragraph (1), no proceeding may be initiated under this section by such organization unless the pleading is filed before the 91st day after the date of such mailing.

“(c) VALIDATION OF CERTAIN CONTRIBUTIONS MADE DURING PENDENCY OF PROCEEDINGS.—

“(1) IN GENERAL.—If—

“(A) the issue referred to in subsection (a)(1) involves the revocation of a determination that the organization is described in section 170(c)(2),

“(B) a proceeding under this section is initiated within the time provided by subsection (b)(3), and

“(C) either—

“(i) a decision of the Tax Court has become final (within the meaning of section 7481), or

“(ii) a judgment of the district court of the United States for the District of Columbia has been entered, or

“(iii) a judgment of the Court of Claims has been entered.”

and such decision or judgment, as the case may be, determines that the organization was not described in section 170(c)(2),

then, notwithstanding such decision or judgment, such organization shall be treated as having been described in section 170(c)(2) for purposes of section 170 for the period beginning on the date on which the notice of the revocation was published and ending on the date on which the court first determined in such proceeding that the organization was not described in section 170(c)(2).

“(2) LIMITATION.—Paragraph (1) shall apply only—

“(A) with respect to individuals, and only to the extent that the aggregate of the contributions made by any individual to or for the use of the organization during the period specified in paragraph (1) does not exceed \$1,000 (for this purpose treating a husband and wife as one contributor), and

“(B) with respect to organizations described in section 170(c)(2) which are exempt from tax under section 501(a) (for this purpose excluding any such organization with respect to which there is pending a proceeding to revoke the determination under section 170(c)(2)).

“(3) EXCEPTION.—This subsection shall not apply to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization which were the basis for the revocation.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7451 (relating to fee for filing petition) is amended by inserting before the period at the end thereof the following: “or under section 7428”. 26 USC 7451.

(2) Section 7459(c) (relating to date of decision) is amended by inserting after “under part IV of this subchapter” the following: “or under section 7428”. *Ante*, p. 1717.
26 USC 7459.

(3) Section 7476(c) (relating to use of Tax Court commissioners) is amended by striking out “this section” and inserting in lieu thereof “this section or section 7428”. 26 USC 7476.

(4) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out “or” at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof “, or”, and by inserting after subparagraph (D) the following new subparagraph: 26 USC 7482.

“(E) in the case of an organization seeking a declaratory decision under section 7428, the principal office or agency of the organization.”.

(5) Section 7482(b)(1) is further amended by striking out “section 7476” in the last sentence and inserting in lieu thereof “section 7428, 7476,”.

(6) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7428 and inserting in lieu thereof the following:

“Sec. 7428. Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.

“Sec. 7430. Cross references.”

(7) Section 1346(e) of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant), is amended by inserting “or section 7428 (in the case of the United States district court for the District of Columbia)” immediately after “section 7426”.

(8) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy), is amended by striking out “taxes” and inserting in lieu thereof “taxes other than

actions brought under section 7428 of the Internal Revenue Code of 1954".

Ante, p. 1717.

(9) (A) Chapter 92 of title 28, United States Code, is amended by adding at the end thereof the following new section:

28 USC 1507.

"§ 1507. Jurisdiction for certain declaratory judgments

"The Court of Claims shall have jurisdiction to hear any suit for and issue a declaratory judgment under section 7428 of the Internal Revenue Code of 1954."

(B) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"1507. Jurisdiction for certain declaratory judgments."

26 USC 7428
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after the date of the enactment of this Act but only with respect to determinations (or requests for determinations) made after January 1, 1976.

SEC. 1307. LOBBYING BY PUBLIC CHARITIES.

(a) **LOSS OF EXEMPT STATUS.**—

26 USC 501.

(1) **LOSS OF EXEMPT STATUS BECAUSE OF SUBSTANTIAL LOBBYING.**—Section 501 (relating to exemption from income tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) **EXPENDITURES BY PUBLIC CHARITIES TO INFLUENCE LEGISLATION.**—

"(1) **GENERAL RULE.**—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally—

"(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

"(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

"(2) **DEFINITIONS.**—For purposes of this subsection—

"(A) **LOBBYING EXPENDITURES.**—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

"(B) **LOBBYING CEILING AMOUNT.**—The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

"(C) **GRASS ROOTS EXPENDITURES.**—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d) without regard to paragraph (1) (B) thereof).

"(D) **GRASS ROOTS CEILING AMOUNT.**—The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

"(3) **ORGANIZATIONS TO WHICH THIS SUBSECTION APPLIES.**—This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary may prescribe) to have the provisions of this subsection apply to such organiza-

Post, p.1723.

tion and which, for the taxable year which includes the date the election is made, is described in subsection (c) (3) and—

“(A) is described in paragraph (4), and

“(B) is not a disqualified organization under paragraph (5).

“(4) ORGANIZATIONS PERMITTED TO ELECT TO HAVE THIS SUBSECTION APPLY.—An organization is described in this paragraph if it is described in—

“(A) section 170(b) (1) (A) (ii) (relating to educational institutions),

“(B) section 170(b) (1) (A) (iii) (relating to hospitals and medical research organizations),

“(C) section 170(b) (1) (A) (iv) (relating to organizations supporting government schools),

“(D) section 170(b) (1) (A) (vi) (relating to organizations publicly supported by charitable contributions),

“(E) section 509(a) (2) (relating to organizations publicly supported by admissions, sales, etc.), or

“(F) section 509(a) (3) (relating to organizations supporting certain types of public charities) except that for purposes of this subparagraph, section 509(a) (3) shall be applied without regard to the last sentence of section 509(a).

“(5) DISQUALIFIED ORGANIZATIONS.—For purposes of paragraph (3) an organization is a disqualified organization if it is—

“(A) described in section 170(b) (1) (A) (i) (relating to churches),

“(B) an integrated auxiliary of a church or of a convention or association of churches, or

“(C) a member of an affiliated group of organizations (within the meaning of section 4911(f) (2)) if one or more members of such group is described in subparagraph (A) or (B).

Post, p.1723.

“(6) YEARS FOR WHICH ELECTION IS EFFECTIVE.—An election by an organization under this subsection shall be effective for all taxable years of such organization which—

“(A) end after the date the election is made, and

“(B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary).

Regulations.

“(7) NO EFFECT ON CERTAIN ORGANIZATIONS.—With respect to any organization for a taxable year for which—

“(A) such organization is a disqualified organization (within the meaning of paragraph (5)), or

“(B) an election under this subsection is not in effect for such organization,

nothing in this subsection or in section 4911 shall be construed to affect the interpretation of the phrase, ‘no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,’ under subsection (c) (3).

“(8) AFFILIATED ORGANIZATIONS.—

“For rules regarding affiliated organizations, see section 4911(f).”.

(2) STATUS OF ORGANIZATION WHICH CEASES TO QUALIFY FOR EXEMPTION UNDER SECTION 501(C) (3) BECAUSE OF SUBSTANTIAL LOBBYING.—Part I of subchapter F of chapter 1 (relating to general rules as to exempt organizations) is amended by adding at the end thereof the following new section :

26 USC 504.

26 USC 504.

“SEC. 504. STATUS AFTER ORGANIZATION CEASES TO QUALIFY FOR EXEMPTION UNDER SECTION 501(c)(3) BECAUSE OF SUBSTANTIAL LOBBYING.

“(a) **GENERAL RULE.**—An organization which—

“(1) was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

“(2) is not an organization described in section 501(c)(3) by reason of carrying on propaganda, or otherwise attempting, to influence legislation,

shall not at any time thereafter be treated as an organization described in section 501(c)(4).

“(b) **REGULATIONS TO PREVENT AVOIDANCE.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

“(c) **CHURCHES, ETC.**—Subsection (a) shall not apply to any organization which is a disqualified organization within the meaning of section 501(h)(5) (relating to churches, etc.) for the taxable year immediately preceding the first taxable year for which such organization is described in paragraph (2) of subsection (a).”

26 USC 504
note.

(3) **RULES OF INTERPRETATION.**—It is the intent of Congress that enactment of this section is not to be regarded in any way as an approval or disapproval of the decision of the Court of Appeals for the Tenth Circuit in *Christian Echoes National Ministry, Inc. versus United States*, 470 F.2d 849 (1972), or of the reasoning in any of the opinions leading to that decision.

26 USC 6033.

(4) **DISCLOSURE.**—Section 6033(b) (relating to information required to be furnished annually by certain exempt organizations) is amended by striking out “and” at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof “, and”, and by adding at the end thereof the following:

Ante, p. 1720.

“(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year, the following amounts for such organization for such taxable year:

Post, p. 1723.

“(A) the lobbying expenditures (as defined in section 4911(c)(1)),

“(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

“(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

“(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)).

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.”

(b) **TAXES ON EXCESS EXPENDITURES TO INFLUENCE LEGISLATION.**—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 42 the following new chapter:

"CHAPTER 41—PUBLIC CHARITIES

"Sec. 4911. Tax on excess expenditures to influence legislation.

"SEC. 4911. TAX ON EXCESS EXPENDITURES TO INFLUENCE LEGISLATION. 26 USC 4911.**"(a) TAX IMPOSED.—**

"(1) **IN GENERAL.**—There is hereby imposed on the excess lobbying expenditures of any organization to which this section applies a tax equal to 25 percent of the amount of the excess lobbying expenditures for the taxable year.

"(2) **ORGANIZATIONS TO WHICH THIS SECTION APPLIES.**—This section applies to any organization with respect to which an election under section 501(h) (relating to lobbying expenditures by public charities) is in effect for the taxable year.

Ante, p. 1720.

"(b) **EXCESS LOBBYING EXPENDITURES.**—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the greater of—

"Excess lobbying expenditures."

"(1) the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year, or

"(2) the amount by which the grass roots expenditures made by the organization during the taxable year exceed the grass roots nontaxable amount for such organization for such taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) **LOBBYING EXPENDITURES.**—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d)).

"(2) **LOBBYING NONTAXABLE AMOUNT.**—The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) \$1,000,000 or (B) the amount determined under the following table:

"If the proposed expenditures are—	The lobbying nontaxable amount is—
Not over \$500,000-----	20 percent of the exempt purpose expenditures.
Over \$500,000 but not over \$1,000,000--	\$100,000, plus 15 percent of the excess of the exempt purpose expenditures over \$500,000.
Over \$1,000,000 but not over \$1,500,000--	\$175,000 plus 10 percent of the excess of the exempt purpose expenditures over \$1,000,000.
Over \$1,500,000-----	\$225,000 plus 5 percent of the excess of the exempt purpose expenditures over \$1,500,000.

"(3) **GRASS ROOTS EXPENDITURES.**—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d) without regard to paragraph (1) (B) thereof).

"(4) **GRASS ROOTS NONTAXABLE AMOUNT.**—The grass roots nontaxable amount for any organization for any taxable year is 25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.

"(d) INFLUENCING LEGISLATION.—

"(1) **GENERAL RULE.**—Except as otherwise provided in paragraph (2), for purposes of this section, the term 'influencing legislation' means—

"Influencing legislation."

"(A) any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof, and

"Influencing legislation."

"(B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation.

"(2) EXCEPTIONS.—For purposes of this section, the term 'influencing legislation', with respect to an organization, does not include—

"(A) making available the results of nonpartisan analysis, study, or research;

"(B) providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;

"(C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, tax-exempt status, or the deduction of contributions to the organization;

"(D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications described in paragraph (3); and

"(E) any communication with a government official or employee, other than—

"(i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

"(ii) a communication the principal purpose of which is to influence legislation.

"(3) COMMUNICATIONS WITH MEMBERS.—

"(A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate as provided in paragraph (1) (B) shall be treated as a communication described in paragraph (1) (B).

"(B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B) of paragraph (1) shall be treated as a communication described in paragraph (1) (A).

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EXEMPT PURPOSE EXPENDITURES.—

"(A) IN GENERAL.—The term 'exempt purpose expenditures' means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in section 170(c) (2) (B) (relating to religious, charitable, educational, etc., purposes).

"(B) CERTAIN AMOUNTS INCLUDED.—The term 'exempt purpose expenditures' includes—

"(i) administrative expenses paid or incurred for purposes described in section 170(c) (2) (B), and

“(ii) amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in section 170(c)(2)(B)).

26 USC 170.

“(C) CERTAIN AMOUNTS EXCLUDED.—The term ‘exempt purpose expenditures’ does not include amounts paid or incurred to or for—

“(i) a separate fundraising unit of such organization, or

“(ii) one or more other organizations, if such amounts are paid or incurred primarily for fundraising.

“(2) LEGISLATION.—The term ‘legislation’ includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

“(3) ACTION.—The term ‘action’ is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

“(4) DEPRECIATION, ETC., TREATED AS EXPENDITURES.—In computing expenditures paid or incurred for the purpose of influencing legislation (within the meaning of subsection (b)(1) or (b)(2)) or exempt purpose expenditures (as defined in paragraph (1)), amounts properly chargeable to capital account shall not be taken into account. There shall be taken into account a reasonable allowance for exhaustion, wear and tear, obsolescence, or amortization. Such allowance shall be computed only on the basis of the straight-line method of depreciation. For purposes of this section, a determination of whether an amount is properly chargeable to capital account shall be made on the basis of the principles that apply under subtitle A to amounts which are paid or incurred in a trade or business.

26 USC 1.

“(f) AFFILIATED ORGANIZATIONS.—

“(1) IN GENERAL.—Except as otherwise provided in paragraph (4), if for a taxable year two or more organizations described in section 501(c)(3) are members of an affiliated group of organizations as defined in paragraph (2), and an election under section 501(h) is effective for at least one such organization for such year, then—

Ante, p. 1720.

“(A) the determination as to whether excess lobbying expenditures have been made and the determination as to whether the expenditure limits of section 501(h)(1) have been exceeded shall be made as though such affiliated group is one organization,

“(B) if such group has excess lobbying expenditures, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which has excess lobbying expenditures in an amount which equals such organization’s proportionate share of such group’s excess lobbying expenditures,

“(C) the expenditure limits of section 501(h)(1) are exceeded, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which is not described in section 501(c)(3) by reason of the application of 501(h), and

“(D) subparagraphs (C) and (D) of subsection (d)(2), paragraph (3) of subsection (d), and clause (i) of subsec-

tion (e) (1) (C) shall be applied as if such affiliated group were one organization.

“(2) DEFINITION OF AFFILIATION.—For purposes of paragraph (1), two organizations are members of an affiliated group of organizations but only if—

“(A) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

“(B) the governing board of one such organization includes persons who—

“(i) are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

“(ii) by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

Regulations.

“(3) DIFFERENT TAXABLE YEARS.—If members of an affiliated group of organizations have different taxable years, their expenditures shall be computed for purposes of this section in a manner to be prescribed by regulations promulgated by the Secretary.

“(4) LIMITED CONTROL.—If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), no two members of such affiliated group are affiliated (as defined in paragraph (2) without regard to subparagraph (A) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to Acts, bills, resolutions, or similar items by the Congress, then—

“(A) in the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h) (1) shall be made as though such organization has paid or incurred those amounts paid or incurred by such members of such affiliated group to influence legislation with respect to Acts, bills, resolutions, or similar items by the Congress, and

“(B) in the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h) (1) shall be made as though such organization is not a member of such affiliated group.”

(c) DISALLOWING OF DEDUCTION FOR CONTRIBUTION TO INFLUENCE LEGISLATION.—Section 170(f) (relating to disallowance of charitable contribution deductions in certain cases) is amended by striking out paragraph (6) and inserting in lieu thereof the following:

“(6) DEDUCTIONS FOR OUT-OF-POCKET EXPENDITURES.—No deduction shall be allowed under this section for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) (other than an organization described in section 501(h) (5) (relating to churches, etc.)) if the expendi-

Ante, p. 1720.

26 USC 170.

ture is made for the purpose of influencing legislation (within the meaning of section 501(c)(3)).”.

(d) TECHNICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO NEW SECTION 501(h).—

Ante, p. 1720.
26 USC 501.

(A) Section 501(c)(3) is amended by striking out “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,” and inserting in lieu thereof “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)).”.

(B) The following sections are amended by striking out “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,” each place it appears and inserting in lieu thereof in each such place “which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,”:

(i) section 170(c)(2)(D) (relating to the definition of charitable contributions); 26 USC 170.

(ii) section 2055(a)(2) (relating to transfers for public, charitable, and religious uses); 26 USC 2055.

(iii) section 2106(a)(2)(A)(ii) (relating to transfers for public, charitable, and religious uses); 26 USC 2106.

(iv) section 2522(a)(2) (relating to charitable and similar gifts of citizens or residents); and 26 USC 2522.

(v) section 2522(b)(2) (relating to charitable and similar gifts of nonresidents).

(C) Sections 2055(a)(3) and 2106(a)(2)(A)(iii) (relating to transfers for public, charitable, and religious uses) are amended by striking out “no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation,” each place it appears and inserting in lieu thereof in each such place “such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,”. 26 USC 2055, 2106.

(2) AMENDMENTS CONFORMING TO NEW CHAPTER 41.—

(A) Paragraph (6) of section 275(a) (denying deductions for certain taxes), as amended by this Act, is amended to read as follows: 26 USC 275.

“(6) Taxes imposed by chapters 41, 42, 43, and 44.” 26 USC 4911, 4940, 4971.

(B) Section 6104(c)(1)(B) (relating to notification of state officers regarding taxes imposed on certain exempt organizations), is amended by striking out “chapter 42” and inserting in lieu thereof “chapter 41 or 42”. *Post*, p. 1754. 26 USC 6104.

(C) Section 6161(b) (relating to extensions of time for paying tax) is amended— 26 USC 6161.

(i) in paragraph (1) by striking out “12” and inserting in lieu thereof “12, 41”; and

(ii) in the second sentence by striking out “42,” and inserting in lieu thereof “41, 42”.

(D) Section 6201(d) (relating to assessment authority) is amended by striking out “chapter 42, and chapter 43 taxes” and inserting in lieu thereof “and certain excise taxes”. 26 USC 6201.

26 USC 6211.

(E) Section 6211(a) (defining deficiency) is amended by striking out “chapters 42” and inserting in lieu thereof “chapters 41, 42.”

(F) The following sections are amended by striking out “chapter 42” each place it appears and inserting in lieu thereof in each such place “chapter 41, 42.”;

26 USC 6212.

(i) subsections (a) and (b) (2) of section 6211 (defining deficiency);

26 USC 6213.

(ii) section 6212(a) (relating to notice of deficiency);
(iii) section 6213(a) (relating to restrictions applicable to deficiencies and petitions to Tax Court);

26 USC 6214.

(iv) subsections (c) and (d) of section 6214 (relating to determinations by Tax Court);

26 USC 6344.

(v) section 6344(a) (1) (relating to cross references);

26 USC 6501.

(vi) section 6501(e) (3) (relating to limitations on assessment and collection);

26 USC 6512.

(vii) subsections (a) and (b) (1) of section 6512 (relating to limitations in case of petition to Tax Court); and

26 USC 7422.

(viii) section 7422(e) (relating to civil actions for refund).

26 USC 6212.

(G) Section 6212 (relating to notice of deficiency) is amended—

(i) in subsection (b) (1) by striking out “chapter 42” each place it appears and inserting in lieu thereof in each place “chapter 41, chapter 42”; and

(ii) in subsection (c) (1) by striking out “of chapter 43 tax for the same taxable years,” and inserting in lieu thereof “of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable year.”

(H) The headings of section 6214(c) (relating to determinations by Tax Court) and 6601(c) (relating to interest on underpayments, etc.) are amended by striking out “Chapter 42” and inserting in lieu thereof in each such place “Chapter 41, 42.”

(3) AMENDMENTS TO TABLES OF CHAPTERS AND SECTIONS.—

(A) The table of chapters for subtitle D is amended by inserting before the item relating to chapter 42 the following:

“Chapter 41. Public charities.”

(B) The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following:

“Sec. 504. Status after organization ceases to qualify for exemption under section 501(c) (3) because of substantial lobbying.”

26 USC 501
note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply—

26 USC 1.

(1) except as otherwise specified in paragraph (2), in the case of amendments to subtitle A, to taxable years beginning after December 31, 1976;

26 USC 2001.

(2) in the case of the amendments made by subsection (a) (2), to activities occurring after the date of the enactment of this Act;

26 USC 2501.

(3) in the case of amendments to chapter 11, to the estates of decedents dying after December 31, 1976;

(4) in the case of amendments to chapter 12, to gifts in calendar years beginning after December 31, 1976;

(5) in the case of amendments to subtitle D, to taxable years beginning after December 31, 1976; and 26 USC 4001.

(6) in the case of amendments to subtitle F, on and after the date of the enactment of this Act. 26 USC 6001.

SEC. 1308. TAX LIENS, ETC., NOT TO CONSTITUTE ACQUISITION INDEBTEDNESS.

(a) GENERAL RULE.—Section 514(c)(2) (relating to property acquired subject to mortgages, etc.) is amended by adding at the end thereof the following new subparagraph: 26 USC 514.

“(C) LIENS FOR TAXES OR ASSESSMENTS.—Where State law provides that—

“(i) a lien for taxes, or

“(ii) a lien for assessments,

made by a State or a political subdivision thereof attaches to property prior to the time when such taxes or assessments become due and payable, then such lien shall be treated as similar to a mortgage (within the meaning of subparagraph (A)) but only after such taxes or assessments become due and payable and the organization has had an opportunity to pay such taxes or assessments in accordance with State law.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1969. 26 USC 514 note.

SEC. 1309. EXTENSION OF SELF-DEALING TRANSITION RULES FOR PRIVATE FOUNDATIONS.

(a) EXTENSION OF RULE.—Section 101(1)(2)(B) of the Tax Reform Act of 1969 is amended by striking out “January 1, 1975” and inserting in lieu thereof “January 1, 1977”. 26 USC 4940 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions made after the date of the enactment of this Act.

SEC. 1310. IMPUTED INTEREST.

(a) GENERAL RULE.—Section 4942(f)(2) (relating to income modifications) is amended— 26 USC 4942.

(1) by striking out “and” at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “; and”, and

(3) by adding at the end thereof the following new subparagraph:

“(D) section 483 (relating to imputed interest) shall not apply in the case of a binding contract made in a taxable year beginning before January 1, 1970.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 4942 note.

SEC. 1311. CERTAIN HOSPITAL SERVICES.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection: 26 USC 513.

“(e) CERTAIN HOSPITAL SERVICES.—In the case of a hospital described in section 170(b)(1)(A)(iii), the term ‘unrelated trade or business’ does not include the furnishing of one or more of the services described in section 501(e)(1)(A) to one or more hospitals described in section 170(b)(1)(A)(iii) if— “Unrelated trade or business.”

“(1) such services are furnished solely to such hospitals which have facilities to serve not more than 100 inpatients;

“(2) such services, if performed on its own behalf by the recipient hospital, would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption; and

“(3) such services are provided at a fee or cost which does not exceed the actual cost of providing such services, such cost including straight line depreciation and a reasonable amount for return on capital goods used to provide such services.”

26 USC 513
note.
26 USC 1.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to all taxable years to which the Internal Revenue Code of 1954 applies.

SEC. 1312. CLINICAL SERVICES OF COOPERATIVE HOSPITALS.

26 USC 501.

(a) **IN GENERAL.**—Section 501(e)(1)(A) (relating to cooperative hospital service organizations) is amended by inserting “clinical,” after “food.”

26 USC 501
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years ending after December 31, 1976.

SEC. 1313. EXEMPTION OF CERTAIN AMATEUR ATHLETIC ORGANIZATIONS FROM TAX.

26 USC 501.

(a) **IN GENERAL.**—Paragraph (3) of section 501(c) (relating to exempt religious, charitable, etc., organizations) is amended by inserting after “or educational purposes,” the following: “or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),”.

(b) **TREATMENT OF GIFTS TO SUCH ORGANIZATIONS FOR INCOME, ESTATE AND GIFT TAX PURPOSES.**—

26 USC 170.

(1) Subparagraph (B) of section 170(c)(2) (relating to definition of charitable contribution) is amended by inserting after “or educational purposes” the following: “, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),”.

26 USC 2055.

(2) Paragraph (2) of section 2055(a) (relating to transfers for public, charitable, and religious uses) is amended by inserting after “the encouragement of art” the following: “, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),”.

26 USC 2522.

(3) Paragraph (2) of section 2522(a) (relating to charitable and similar gifts) is amended by inserting after “or educational purposes” the following: “, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),”.

26 USC 501
note.

(c) An organization which (without regard to the amendments made by this section) is an organization described in section 170(c)(2)(B), 501(c)(3), 2055(a)(2), or 2522(a)(2) of the Internal Revenue Code of 1954 shall not be treated as an organization not so described as a result of the amendments made by this section.

26 USC 501
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply on the day following the date of the enactment of this Act.

TITLE XIV—TREATMENT OF CERTAIN CAPITAL LOSSES; HOLDING PERIOD FOR CAPITAL GAINS AND LOSSES

SEC. 1401. INCREASE IN AMOUNT OF ORDINARY INCOME AGAINST WHICH CAPITAL LOSS MAY BE OFFSET.

(a) GENERAL RULE.—Subparagraph (B) of section 1211(b)(1) (relating to limitation on capital losses for taxpayers other than corporations) is amended by striking out “\$1,000” and inserting in lieu thereof “the applicable amount”. 26 USC 1211.

(b) APPLICABLE AMOUNT DEFINED.—Paragraph (2) of section 1211(b) (relating to limitation on capital losses for taxpayers other than corporations) is amended to read as follows:

“(2) APPLICABLE AMOUNT.—For purposes of paragraph (1) (B), the term ‘applicable amount’ means—

“(A) \$2,000 in the case of any taxable year beginning in 1977; and

“(B) \$3,000 in the case of any taxable year beginning after 1977.

In the case of a separate return by a husband or wife, the applicable amount shall be one-half of the amount determined under the preceding sentence.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976. 26 USC 1211 note.

SEC. 1402. INCREASE IN HOLDING PERIOD REQUIRED FOR CAPITAL GAIN OR LOSS TO BE LONG TERM.

(a) INCREASE IN TWO STEPS FROM 6 MONTHS TO 1 YEAR.—

(1) TAXABLE YEARS BEGINNING IN 1977.—Effective with respect to taxable years beginning in 1977, paragraphs (1), (2), (3), and (4) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out “6 months” and inserting in lieu thereof “9 months”. 26 USC 1222.

(2) TAXABLE YEARS BEGINNING AFTER 1977.—Effective with respect to taxable years beginning after December 31, 1977, paragraphs (1), (2), (3), and (4) of section 1222 are each amended by striking out “9 months” and inserting in lieu thereof “1 year”.

(b) CONFORMING AMENDMENTS.—

(1) TAXABLE YEARS BEGINNING IN 1977.—Effective with respect to taxable years beginning in 1977, the following provisions are each amended by striking out “6 months” each place it appears and inserting in lieu thereof “9 months”:

(A) Paragraph (1) (B) of section 166(d) (relating to non-business debts). 26 USC 166.

(B) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations). 26 USC 341.

(C) Paragraph (2) of subsection (a) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees’ trust) and subparagraph (L) of paragraph (4) of section 402(e) (relating to election to treat pre-1974 participation as post-1973 participation). 26 USC 402.

(D) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan). 26 USC 403.

- 26 USC 423. (E) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).
- 26 USC 424. (F) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).
- 26 USC 582. (G) Paragraph (2) of section 582(c) (relating to capital gains of banks).
- 26 USC 584. (H) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).
- 26 USC 631. (I) Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore).
- 26 USC 642. (J) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).
- 26 USC 644. (K) Section 644 (relating to special holding period rules for gain on property transferred to trust at less than fair market value).
- 26 USC 702. (L) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).
- 26 USC 817. (M) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).
- 26 USC 852. (N) Subparagraph (B) of paragraph (3), and paragraph (4), of section 852(b) (relating to taxation of shareholders of regulated investment companies).
- 26 USC 856. (O) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).
- 26 USC 857. (P) Subparagraph (B) of paragraph (3), and paragraph (5), of section 857(b) (relating to taxation of shareholders of real estate investment trusts).
- 26 USC 1223. (Q) Paragraph (11) of section 1223 (relating to holding period of property).
- 26 USC 1231. (R) Section 1231 (relating to property used in the trade or business and involuntary conversions).
- 26 USC 1232. (S) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).
- 26 USC 1233. (T) Subsections (b), (d), and (e) of section 1233 (relating to gains and losses from short sales).
- Post*, p. 1929. (U) Paragraph (1) of section 1234(b) (relating to special rule for gain on lapse of an option granted as part of a straddle), as amended by this Act.
- 26 USC 1235. (V) Subsection (a) of section 1235 (relating to sale or exchange of patents).
- 26 USC 1246. (W) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).
- 26 USC 1247. (X) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).
- 26 USC 1248. (Y) Subsection (b), and subparagraph (C) of subsection (f)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).
- 26 USC 1251. (Z) Paragraph (1) of section 1251(e) (defining farm recapture property).

(2) TAXABLE YEARS BEGINNING AFTER 1977.—Effective with respect to taxable years beginning after December 31, 1977, each

provision referred to in paragraph (1) is amended by striking out "9 months" each place it appears and inserting in lieu thereof "1 year". *Ante*, p. 1731.

(3) **TECHNICAL AMENDMENT.**—Effective with respect to taxable years beginning after December 31, 1976, section 631(a) (relating to gain or loss in the case of timber) is amended by striking out "before the beginning of such year". 26 USC 631.

(c) **TRANSITIONAL RULE FOR CERTAIN INSTALLMENT OBLIGATIONS.**—In the case of amounts received from sales or other dispositions of capital assets pursuant to binding contracts, including sales or other dispositions the income from which is returned on the basis and in the manner prescribed in section 453(a) (1) of the Internal Revenue Code of 1954, if the gain or loss was treated as long-term for the taxable year for which the amount was realized, such gain or loss shall be treated as long-term for the taxable year for which the gain or loss is returned or otherwise recognized. 26 USC 453 note.

(d) **RETENTION OF 6-MONTH PERIOD FOR FUTURES TRANSACTIONS IN COMMODITIES.**—Section 1222 (relating to other terms relating to capital gains and losses) is amended by adding at the end thereof the following new sentence: 26 USC 1222.

"For purposes of this subtitle, in the case of futures transactions in any commodity subject to the rules of a board of trade or commodity exchange, the length of the holding period taken into account under this section or under any other section amended by section 1402 of the Tax Reform Act of 1976 shall be determined without regard to the amendments made by subsections (a) and (b) of such section 1402."

SEC. 1403. ALLOWANCE OF 8-YEAR CAPITAL LOSS CARRYOVER IN CASE OF REGULATED INVESTMENT COMPANIES.

(a) **GENERAL RULE.**—Paragraph (1) of section 1212(a) (relating to capital loss carrybacks and carryovers for corporations) is amended by striking out "and" at the end of subparagraph (A) and by striking out subparagraph (B) and inserting in lieu thereof the following: 26 USC 1212.

"(B) except as provided in subparagraph (C), a capital loss carryover to each of the 5 taxable years succeeding the loss year; and

"(C) a capital loss carryover—

"(i) in the case of a regulated investment company (as defined in section 851) to each of the 8 taxable years succeeding the loss year, and

"(ii) to the extent such loss is attributable to a foreign expropriation capital loss, to each of the 10 taxable years exceeding the loss year."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to loss years (within the meaning of section 1212(a) (1) of the Internal Revenue Code of 1954) ending on or after January 1, 1970. 26 USC 1212 note.

SEC. 1404. SALE OF RESIDENCE BY ELDERLY.

(a) **IN GENERAL.**—Section 121(b) (1) (relating to gain from sale or exchange of residence of individual who has attained age 65) is amended by striking out "\$20,000" each place it appears therein and inserting in lieu thereof "\$35,000". 26 USC 121.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976. 26 USC 121 note.

TITLE XV—PENSION AND INSURANCE TAXATION

SEC. 1501. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS.

(a) ALLOWANCE OF DEDUCTION.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as 221 and by inserting after section 219 the following new section:

26 USC 220.

“SEC. 220. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS.

“(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction amounts paid in cash for a taxable year by or on behalf of such individual for the benefit of himself and his spouse—

“(1) to an individual retirement account described in section 408(a),

“(2) for an individual retirement annuity described in section 408(b), or

“(3) for a retirement bond described in section 409 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this title, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

“(b) LIMITATIONS AND RESTRICTIONS.—

“(1) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) to an individual for any taxable year may not exceed—

“(A) twice the amount paid to the account or annuity, or for the bond, established for the individual or for his spouse to or for which the lesser amount was paid for the taxable year,

“(B) an amount equal to 15 percent of the compensation includible in the individual's gross income for the taxable year, or

“(C) \$1,750,
whichever is the smallest amount.

“(2) ALTERNATIVE DEDUCTION.—No deduction is allowed under subsection (a) for the taxable year if the individual claims the deduction allowed by section 219 for the taxable year.

“(3) COVERAGE UNDER CERTAIN OTHER PLANS.—No deduction is allowed under subsection (a) for an individual for the taxable year if for any part of such year—

“(A) he or his spouse was an active participant in—

“(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

“(ii) an annuity plan described in section 403(a),

“(iii) a qualified bond purchase plan described in section 405(a), or

“(iv) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or
 “(B) amounts were contributed by his employer, or his spouse’s employer, for an annuity contract described in section 403(b) (whether or not his, or his spouse’s, rights in such contract are nonforfeitable). 26 USC 403.

“(4) CONTRIBUTIONS AFTER AGE 70½.—No deduction is allowed under subsection (a) with respect to any payment which is made for a taxable year of an individual if either the individual or his spouse has attained age 70½ before the close of such taxable year.

“(5) RECONTRIBUTED AMOUNTS.—No deduction is allowed under this section with respect to a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C).

“(6) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no deduction is allowed under subsection (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

“(7) EMPLOYED SPOUSES.—No deduction is allowed under subsection (a) with respect to a payment described in subsection (a) made for any taxable year of the individual if the spouse of the individual has any compensation (determined without regard to section 911) for the taxable year of such spouse ending with or within such taxable year.

“(c) DEFINITIONS AND SPECIAL RULES.—

“(1) COMPENSATION.—For purposes of this section, the term ‘compensation’ includes earned income as defined in section 401(c)(2).

“(2) MARRIED INDIVIDUALS.—This section shall be applied without regard to any community property laws.

“(3) DETERMINATION OF MARITAL STATUS.—The determination of whether an individual is married for purposes of this section shall be made in accordance with the provisions of section 143(a).

“(4) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than 45 days after the end of such taxable year.

“(5) PARTICIPATION IN GOVERNMENTAL PLANS BY CERTAIN INDIVIDUALS.—A member of a reserve component of the armed forces or a volunteer firefighter is not considered to be an active participant in a plan described in subsection (b)(3)(A)(iv) if, under section 219(c)(4), he is not considered to be an active participant in such a plan.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (10) of section 62 (relating to retirement savings) is amended by inserting before the period the following: “and the deduction allowed by section 220 (relating to retirement savings for certain married individuals)” 26 USC 62.

(2) Paragraph (2) of section 408(c) is amended by inserting “(or spouse of an employee or member)” after “member”. 26 USC 408.

(3) Subsection (a) of section 415 (relating to limitations on benefits and contributions under qualified plans) is amended— 26 USC 415.

(A) by striking out “In the case” in paragraph (2) and inserting in lieu thereof “Except as provided in paragraph (3), in the case”, and

(B) by adding at the end thereof the following new paragraph:

“(3) ACCOUNTS, ETC., ESTABLISHED FOR NON-EMPLOYED SPOUSE.—Paragraph (2) shall not apply for any year to an account, annuity, or bond described in section 408(a), 408(b), or 409, respectively, established for the benefit of the spouse of the individual contributing to such account, or for such annuity or bond, if a deduction is allowed under section 220 to such individual with respect to such contribution for such year.”

Ante, p. 1734.

26 USC 219.

(4) Section 219 (relating to retirement savings) is amended—

(A) by striking out “during” in subsection (a) and inserting in lieu thereof “for”,

(B) by adding at the end of subsection (b) the following new paragraph:

“(6) ALTERNATIVE DEDUCTION.—No deduction is allowed under subsection (a) for the taxable year if the individual claims the deduction allowed by section 220 for the taxable year.”

(C) by adding at the end of subsection (c) (2) the following new sentence: “For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a).”, and

(D) by adding at the end of subsection (c) the following new paragraph:

“(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than 45 days after the end of such taxable year.”

26 USC 408.

(5) Paragraph (4) of section 408(d) (relating to excess contributions returned before due date of return) is amended—

(A) by inserting “or 220” after “219”, and

(B) by striking out the last sentence and inserting in lieu thereof the following: “In the case of such a distribution, for purposes of section 61, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such excess contribution is made.”

26 USC 409.

(6) Paragraph (4) of section 409(a) (relating to retirement bonds) is amended by striking out “in any taxable year” and inserting in lieu thereof “for any taxable year”.

26 USC 3401.

(7) Paragraph (12) of section 3401(a) (relating to definition of wages) is amended by inserting “or 220(a)” after “219(a)”.

26 USC 4973.

(8) Section 4973 (relating to tax on excess contributions to individual retirement accounts, etc.) is amended—

(A) by striking out “such individual” in the last sentence of subsection (a) and inserting in lieu thereof the following: “the individual to whom a deduction is allowed for the taxable year under section 219 (determined without regard to subsection (b) (1) thereof) or section 220 (determined without regard to subsection (b) (1) thereof), whichever is appropriate”;

(B) by inserting “or 220” after “219” in subsection (b) (1) (B); and

(C) by striking out paragraph (2) of subsection (b) and inserting in lieu thereof the following:

“(2) the amount determined under this subsection for the preceding taxable year, reduced by the excess (if any) of the maximum amount allowable as a deduction under section 219

or 220 for the taxable year over the amount contributed to the accounts or for the annuities or bonds for the taxable year and reduced by the sum of the distributions out of the account (for the taxable year and all prior taxable years) which were included in the gross income of the payee under section 408(d)(1). *Ante*, p. 1734.

For purposes of this subsection, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed if such distribution consists of an excess contribution solely because of employer contributions to a plan or contract described in section 219(b)(2) or by reason of the application of section 219(b)(1) (without regard to the \$1,500 limitation) or section 220(b)(1) (without regard to the \$1,750 limitation) and only if such distribution does not exceed the excess of \$1,500 or \$1,750 if applicable, over the amount described in paragraph (1)(B)."

(9) Subsection (d) of section 6047 (relating to other programs) is amended by inserting "or 220(a)" after "219(a)". 26 USC 6047.

(10) Paragraph (1) of section 408(d) (relating to tax treatment of distributions) is amended by striking out the second sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title (including chapters 11 and 12), the basis any person in such an account or annuity is zero." 26 USC 408.

(c) **CLERICAL AMENDMENT.**—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 220 and inserting in lieu thereof the following:

"Sec. 220. Retirement savings for certain married individuals.

"Sec. 221. Cross references."

(d) **EFFECTIVE DATE.**—The amendments made by this section, other than the amendment made by subsection (b)(3), shall apply to taxable years beginning after December 31, 1976. The amendment made by subsection (b)(3) shall apply to years beginning after December 31, 1976. 26 USC 220 note.

SEC. 1502. LIMITATION ON CONTRIBUTIONS TO CERTAIN PENSION, ETC., PLANS.

(a) IN GENERAL.—

(1) **LIMIT ON CONTRIBUTIONS.**—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph: 26 USC 415.

"(5) **APPLICATION WITH SECTION 404(e)(4).**—In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1), the amount determined under paragraph (1)(B) with respect to any participant shall not be less than the amount deductible under section 404(e) with respect to any individual who is an employee within the meaning of section 401(c)(1)."

(2) **MINIMUM DEDUCTION LIMITATION.**—Section 404(e)(4) of such Code (relating to minimum deductible amount for pension plan contributions by self-employed individuals) is amended by adding after subparagraph (B) the following: "This paragraph does not apply for any taxable year to any employee whose adjusted gross income for such taxable year (determined separately for each individual, without regard to any community property laws, and without regard to the deduction allowable under subsection (a)) exceeds \$15,000." 26 USC 404.

26 USC 415
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) (1) shall apply to years beginning after December 31, 1975. The amendment made by subsection (a) (2) shall apply to taxable years beginning after December 31, 1975.

SEC. 1503. PARTICIPATION BY MEMBERS OF RESERVES OR NATIONAL GUARD, AND VOLUNTEER FIREFIGHTERS IN INDIVIDUAL RETIREMENT ACCOUNTS, ETC.

26 USC 219.

(a) **GENERAL RULE.**—Section 219(c) (relating to definitions and special rules for retirement savings deduction) is amended by adding at the end thereof the following new paragraph:

“(4) **PARTICIPATION IN GOVERNMENTAL PLANS BY CERTAIN INDIVIDUALS.**—

“(A) **MEMBERS OF RESERVE COMPONENTS.**—A member of a reserve component of the armed forces (as defined in section 261(a) of title 10) is not considered to be an active participant in a plan described in subsection (b) (3) (A) (iv) for a taxable year solely because he is a member of a reserve component unless he has served in excess of 90 days on active duty (other than active duty for training) during the year.

“(B) **VOLUNTEER FIREFIGHTERS.**—An individual whose participation in a plan described in subsection (b) (3) (A) (iv) is based solely upon his activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of \$1,800 (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year.”

26 USC 219
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1504. CERTAIN INVESTMENTS BY ANNUITY PLANS.

26 USC 403.

(a) **IN GENERAL.**—Paragraph (7) of section 403(b) (relating to custodial accounts for regulated investment company stock) is amended by striking out “, and which issues only redeemable stock” in subparagraph (C).

26 USC 403
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section applies to taxable years beginning after December 31, 1975.

SEC. 1505. SEGREGATED ASSET ACCOUNTS.

26 USC 801.

(a) **SEGREGATED ASSET ACCOUNTS OF LIFE INSURANCE COMPANIES.**—Paragraph (1) (B) of section 801(g) is amended—

(1) by striking out clause (ii) and inserting in lieu thereof the following:

“(ii) which is described in subparagraph (A), (B), (C), (D), or (E) of section 805(d) (1) (other than a life, health or accident, property, casualty, or liability insurance contract) or which provides for the payment of annuities, and”, and

(2) by striking out “as annuities” in clause (iii) and inserting in lieu thereof “out”.

26 USC 401.

(b) **CONFORMING AMENDMENT.**—Section 401 (relating to qualified pension, etc. plans) is amended by striking out subsection (f) and inserting in lieu thereof the following:

“(f) **CERTAIN CUSTODIAL ACCOUNTS AND CONTRACTS.**—For purposes of this title, a custodial account, an annuity contract, or a contract (other than a life, health or accident, property, casualty, or liability insurance contract) issued by an insurance company qualified to do

business in a State shall be treated as a qualified trust under this section if—

“(1) the custodial account or contract would, except for the fact that it is not a trust, constitute a qualified trust under this section, and

“(2) in the case of a custodial account the assets thereof are held by a bank (as defined in subsection (d) (1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will hold the assets will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or contract treated as a qualified trust under this section by reason of this subsection, the person holding the assets of such account or holding such contract shall be treated as the trustee thereof.”

(c) **EFFECTIVE DATE.**—The amendments made by this section apply for taxable years beginning after December 31, 1975.

26 USC 801
note.

SEC. 1506. STUDY OF SALARY REDUCTION PENSION PLANS.

Section 2006 of the Employee Retirement Income Security Act of 1974 is amended—

26 USC 401
note.

(1) by striking out “January 1, 1977” each place it appears and inserting in lieu thereof “January 1, 1978”, and

(2) by striking out “December 31, 1976” in subsection (d) and inserting in lieu thereof “December 31, 1977”.

SEC. 1507. CONSOLIDATED RETURNS FOR LIFE AND OTHER INSURANCE COMPANIES.

(a) **IN GENERAL.**—Section 1504(c) (relating to the definition of includible insurance companies) is amended to read as follows:

26 USC 1504.

“(c) **INCLUDIBLE INSURANCE COMPANIES.**—Notwithstanding the provisions of paragraph (2) of subsection (b)—

“(1) Two or more domestic insurance companies each of which is subject to tax under section 802 shall be treated as includible corporations for purposes of applying subsection (a) to such insurance companies alone.

“(2) (A) If an affiliated group (determined without regard to subsection (b) (2) includes one or more domestic insurance companies taxed under section 802 or 821, the common parent of such group may elect (pursuant to regulations prescribed by the Secretary) to treat all such companies as includible corporations for purposes of applying subsection (a) except that no such company shall be so treated until it has been a member of the affiliated group for the 5 taxable years immediately preceding the taxable year for which the consolidated return is filed.

“(B) If an election under this paragraph is in effect for a taxable year—

“(i) section 243(b) (6) and the exception provided under section 243(b) (5) with respect to subsections (b) (2) and (c) of this section,

“(ii) section 542(b) (5), and

“(iii) subsection (a) (4) and (b) (2) (D) of section 1563, and the reference to section 1563(b) (2) (D) contained in section 1563(b) (3) (C),

shall not be effective for such taxable year.

(b) **SPECIAL RULES AND CONFORMING AMENDMENTS.**—

(1) Section 821 (relating to tax on mutual insurance companies to which part II applies, as amended by section 1901(a) (104) (C) of this Act,) is amended by redesignating subsection (e) as sub-

26 USC 821.

Post, p. 1764.

section (f), and by adding after subsection (d) the following new subsection:

“(e) **TAX APPLICABLE TO MEMBER OF GROUP FILING CONSOLIDATED RETURN.**—Notwithstanding any other provision of this section, if a mutual insurance company to which this section applies joins in the filing of a consolidated return (or is required to so file), the applicable tax shall consist of a normal tax and a surtax computed as provided in section 11 as though the mutual insurance company taxable income of such company were the taxable income referred to in section 11.”

Ante, p. 1606.

26 USC 843.

(2) Section 843 (relating to annual accounting period) is amended by adding at the end thereof the following sentence: “Under regulations prescribed by the Secretary, an insurance company which joins in the filing of a consolidated return (or is required to so file) may adopt the taxable year of the common parent corporation even though such year is not a calendar year.”

26 USC 1503.

(3) Section 1503 (relating to computation and payment of tax) is amended by adding the following new subsection:

“(c) **SPECIAL RULE FOR APPLICATION OF CERTAIN LOSSES AGAINST INCOME OF INSURANCE COMPANIES TAXED UNDER SECTION 802.**—

“(1) **IN GENERAL.**—If an election under section 1504(c)(2) is in effect for the taxable year and the consolidated taxable income of the members of the group not taxed under section 802 results in a consolidated net operating loss for such taxable year, then under regulations prescribed by the Secretary, the amount of such loss which cannot be absorbed in the applicable carryback periods against the taxable income of such members not taxed under section 802 shall be taken into account in determining the consolidated taxable income of the affiliated group for such taxable year to the extent of 35 percent of such loss or 35 percent of the taxable income of the members taxed under section 802, whichever is less. The unused portion of such loss shall be available as a carryover, subject to the same limitations (applicable to the sum of the loss for the carryover year and the loss (or losses) carried over to such year), in applicable carryover years. For purposes of this subsection, in determining the taxable income of each insurance company subject to tax under section 802, section 802(b)(3) shall not be taken into account. For taxable years ending with or within calendar year 1981, ‘25 percent’ shall be substituted for ‘35 percent’ each place it appears in the first sentence of this subsection. For taxable years ending with or within calendar year 1982, ‘30 percent’ shall be substituted for ‘35 percent’ each place it appears in that sentence.

“(2) **LOSSES OF RECENT NONLIFE AFFILIATES.**—Notwithstanding the provisions of paragraph (1), a net operating loss for a taxable year of a member of the group not taxed under section 802 shall not be taken into account in determining the taxable income of a member taxed under section 802 (either for the taxable year or as a carryover or carryback) if such taxable year precedes the sixth taxable year such members have been members of the same affiliated group (determined without regard to section 1504(b)(2)).”

26 USC 1504

note.

(c) **EFFECTIVE DATE AND TRANSITIONAL RULES.**—

(1) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1980.

(2) **TRANSITION RULES WITH RESPECT TO CARRYOVERS OR CARRYBACKS RELATING TO PRE-ELECTION TAXABLE YEARS AND NONTERMINATION OF GROUP.**—

(A) **LIMITATIONS ON CARRYOVERS OR CARRYBACKS FOR GROUPS ELECTING UNDER SECTION 1504(C)(2).**—If an affiliated group elects to file a consolidated return pursuant to section 1504(c)(2) of the Internal Revenue Code of 1954, a carryover of a loss or credit from a taxable year ending before January 1, 1981, and losses or credits which may be carried back to taxable years ending before such date, shall be taken into account as if this section had not been enacted.

(B) **NONTERMINATION OF AFFILIATED GROUP.**—The mere election to file a consolidated return pursuant to such section 1504(c)(2) shall not cause the termination of an affiliated group filing consolidated returns.

SEC. 1508. TREATMENT OF CERTAIN LIFE INSURANCE CONTRACTS GUARANTEED RENEWABLE.

(a) **IN GENERAL.**—Paragraph (d)(5) of section 809 (relating to certain nonparticipating contracts) is amended by adding at the end thereof the following sentence: "For purposes of this paragraph, the period for which any contract is issued or renewed includes the period for which such contract is guaranteed renewable." 26 USC 809.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1957. 26 USC 809 note.

SEC. 1509. STUDY OF EXPANDED PARTICIPATION IN INDIVIDUAL RETIREMENT ACCOUNTS. 26 USC 8022 note.

The Joint Committee on Taxation shall carry out a study with respect to broadening the class of individuals who are eligible to claim a deduction for retirement savings under section 219 or 220 of the Internal Revenue Code of 1954 to include individuals who are participants in pension plans described in section 401(a) of such Code (relating to qualified pension, profit-sharing, and stock bonus plans) or similar plans established for its employees by the United States, by a State or political division thereof, or by an agency or instrumentality of the United States or a State or political division thereof. The Joint Committee shall report its findings to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. 26 USC 219. *Ante*, p. 1734.

Report to congressional committees.

SEC. 1510. TAXABLE STATUS OF PENSION BENEFIT GUARANTY CORPORATION.

(a) **IN GENERAL.**—Section 4002(g)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(f)(1)) is amended by inserting "by the United States (other than taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to Federal Insurance Contributions Act, and chapter 23 of such Code, relating to Federal Unemployment Tax Act), or" immediately after "imposed". 26 USC 3101. 26 USC 3301.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on September 2, 1974. 29 USC 1302 note.

SEC. 1511. LEVEL PREMIUM PLANS COVERING OWNER-EMPLOYEES.

(a) **IN GENERAL.**—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding after paragraph (6) the following new paragraph: 26 USC 415.

"(7) **CERTAIN LEVEL PREMIUM ANNUITY CONTRACTS UNDER PLANS BENEFITING OWNER-EMPLOYEES.**—Paragraph (1)(B) shall not apply to a contribution described in section 401(e) which is made on behalf of a participant for a year to a plan which benefits an owner-employee (within the meaning of section 401(c)(3)), if—

“(A) the annual addition determined under this section with respect to the participant for such year consists solely of such contribution, and

“(B) the participant is not an active participant at any time during such year in a defined benefit plan maintained by the employer.

26 USC 401.

For purposes of this section and section 401(e), in the case of a plan which provides contributions or benefits for employees who are not owner-employees, such plan will not be treated as failing to satisfy section 401(a)(4) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the limitations of paragraph (1)(B).”

26 USC 415
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply for years beginning after December 31, 1975.

SEC. 1512. LUMP-SUM DISTRIBUTIONS FROM QUALIFIED PENSION, ETC., PLANS.

26 USC 402.

(a) **IN GENERAL.**—Section 402(e)(4) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

“(L) **ELECTION TO TREAT PRE-1974 PARTICIPATION AS POST-1973 PARTICIPATION.**—For purposes of subparagraph (E), subsection (a)(2), and section 403(a)(2), if a taxpayer elects (at the time and in the manner provided under regulations prescribed by the Secretary), all calendar years of an employee's active participation in all plans in which the employee has been an active participant shall be considered years of active participation by such employee after December 31, 1973. An election made under this subparagraph, once made, shall be irrevocable and shall apply to all lump-sum distributions received by the taxpayer with respect to the employee. This subparagraph shall not apply if the taxpayer received a lump-sum distribution in a previous taxable year of the employee beginning after December 31, 1975, unless no portion of such lump-sum distribution was treated under subsection (a)(2) or section 403(a)(2) as gain from the sale or exchange of a capital asset held for more than 6 months.”

26 USC 402
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to distributions and payments made after December 31, 1975, in taxable years beginning after such date.

TITLE XVI—REAL ESTATE INVESTMENT TRUSTS

SEC. 1601. DEFICIENCY DIVIDEND PROCEDURE.

(a) **IN GENERAL.**—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

26 USC 859.

“SEC. 859. DEDUCTION FOR DEFICIENCY DIVIDENDS.

“(a) **GENERAL RULE.**—If a determination (as defined in subsection (c)) with respect to a real estate investment trust results in any adjustment (as defined in subsection (b)(1)) for any taxable year, a deduction shall be allowed to such trust for the amount of deficiency dividends (as defined in subsection (d)) for purposes of determining

the deduction for dividends paid (for purposes of section 857) for such year. 26 USC 857.

“(b) RULES FOR APPLICATION OF SECTION.—

“(1) ADJUSTMENT.—For purposes of this section, the term “Adjustment.” “adjustment” means—

“(A) any increase in the sum of—

“(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain), and

“(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A),

“(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net capital gain over the deduction for capital gains dividends paid), and

Post, p. 1756.

“(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

“(2) INTEREST AND ADDITIONS TO TAX DETERMINED WITH RESPECT TO THE AMOUNT OF DEFICIENCY DIVIDEND DEDUCTION ALLOWED.—For purposes of determining interest, additions to tax, and additional amounts—

“(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the real estate investment trust for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year,

“(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(c)) for the taxable year with respect to which the determination is made, and

“(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

“(3) CREDIT OR REFUND.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

“(c) DETERMINATION.—For purposes of this section, the term “determination” means—

“Determination.”

“(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

“(2) a closing agreement made under section 7121; or

“(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the real estate investment trust relating to the liability of such trust for tax.

Regulations.

“(d) DEFICIENCY DIVIDENDS.—

“(1) DEFINITION.—For purposes of this section, the term ‘deficiency dividends’ means a distribution of property made by the real estate investment trust on or after the date of the determination and before filing claim under subsection (e), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists, if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (e).

“(2) LIMITATIONS.—

“(A) ORDINARY DIVIDENDS.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain dividends) paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

“(i) the excess of the amount of increase referred to in subparagraph (A) of subsection (b)(1) over the amount of any increase in the deduction for dividends paid (computed without regard to capital gain dividends) for such taxable year which results from such determination, and

“(ii) the amount of decrease referred to in subparagraph (C) of subsection (b)(1).

“(B) CAPITAL GAIN DIVIDENDS.—The amount of deficiency dividends qualifying as capital gain dividends paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of subsection (b)(1) exceeds (ii) the amount of any dividends paid during such taxable year which are designated as capital gain dividends after such determination.

“(3) EFFECT ON DIVIDENDS PAID DEDUCTION.—

“(A) FOR TAXABLE YEAR IN WHICH PAID.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

“(B) FOR PRIOR TAXABLE YEAR.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

“(e) CLAIM REQUIRED.—No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefor is filed within 120 days after the date of the determination.

“(f) SUSPENSION OF STATUTE OF LIMITATIONS AND STAY OF COLLECTION.—

“(1) SUSPENSION OF RUNNING OF STATUTE.—If the real estate investment trust files a claim as provided in subsection (e), the

running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

“(2) **STAY OF COLLECTION.**—In the case of any deficiency established by a determination under this section—

“(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

“(B) if claim for a deficiency dividend deduction is filed under subsection (e), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

“(g) **DEDUCTION DENIED IN CASE OF FRAUD.**—No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

“(h) **PENALTY.**—

“For assessable penalty with respect to liability for tax of real estate investment trust which is allowed a deduction under subsection (a), see section 6697.”

(2) The table of sections for such part II is amended by adding at the end thereof the following new item:

“Sec. 859. Deduction for deficiency dividends.”

(b) **PENALTY.**—

(1) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

“**SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF REAL ESTATE INVESTMENT TRUSTS.** 26 USC 6697.

“(a) **CIVIL PENALTY.**—In addition to any other penalty provided by law, any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase.

“(b) **50-PERCENT LIMITATION.**—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a) for such taxable year.

Ante, p. 1742.

26 USC 6211. “(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).”

(2) The table of sections for such subchapter B is amended by adding at the end thereof the following:

“Sec. 6697. Assessable penalties with respect to liability for tax of real estate investment trusts.”

26 USC 857. (c) LATE DESIGNATION AND PAYMENT OF CAPITAL GAIN DIVIDEND.—The first sentence of subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: “; except that, if there is an increase in the excess described in subparagraph (A)(ii) of this paragraph for such year which results from a determination (as defined in section 859(c)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination”.

26 USC 316. (d) DEFINITION OF DIVIDEND.—Subsection (b) of section 316 (relating to the definition of dividend) is amended by adding a new paragraph (3) at the end thereof, to read as follows:

“(3) DEFICIENCY DIVIDEND DISTRIBUTIONS BY A REAL ESTATE INVESTMENT TRUST.—The term ‘dividend’ also means any distribution of property (whether or not a dividend as defined in subsection (a)) which constitutes a ‘deficiency dividend’ as defined in section 859(d).”

26 USC 381. (e) CARRYOVER OF DEFICIENCY DIVIDEND.—Section 381(c) (relating to carryovers in certain corporate acquisitions) is amended by adding a new paragraph (25) at the end thereof, to read as follows:

“(25) DEFICIENCY DIVIDEND OF REAL ESTATE INVESTMENT TRUST.—If the acquiring corporation pays a deficiency dividend (as defined in section 859(d)) with respect to the distributor or transferor corporation, such distributor or transferor corporation shall, with respect to such payments, be entitled to the deficiency dividend deduction provided in section 859.”

Ante, p. 1742. (f) TECHNICAL AMENDMENTS.—

26 USC 6422. (1) Section 6422 (relating to certain cross references) is amended by adding a new paragraph (14) at the end thereof to read as follows:

“(14) for credit or refund in case of deficiency dividends paid by a real estate investment trust, see section 859.”

26 USC 6503. (2) Section 6503(i) (relating to certain cross references) is amended by adding a new paragraph (5) at the end thereof, to read as follows:

“(5) Deficiency dividends of a real estate investment trust, see section 859(f).”

26 USC 6515. (3) Section 6515 (relating to certain cross references) is amended by adding a new paragraph (8) at the end thereof, to read as follows:

“(8) Deficiency dividends of a real estate investment trust, see section 859.”

SEC. 1602. TRUST NOT DISQUALIFIED IN CERTAIN CASES WHERE INCOME TESTS WERE NOT MET.

26 USC 856. (a) DISQUALIFICATION NOT APPLIED.—Section 856(c) (relating to limitations) is amended by adding at the end thereof the following new paragraph:

“(7) A corporation, trust, or association which fails to meet the requirements of paragraph (2) or (3), or of both such paragraphs, for any taxable year shall nevertheless be considered to have satisfied the requirements of such paragraphs for such taxable year if—

“(A) the nature and amount of each item of its gross income described in such paragraphs is set forth in a schedule attached to its income tax return for such taxable year;

“(B) the inclusion of any incorrect information in the schedule referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

“(C) the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, is due to reasonable cause and not due to willful neglect.”.

(b) IMPOSITION OF SPECIAL TAXES.—

(1) Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

“(5) IMPOSITION OF TAX IN CASE OF FAILURE TO MEET CERTAIN REQUIREMENTS.—If section 856(c)(7) applies to a real estate investment trust for any taxable year, there is hereby imposed on such trust a tax in an amount equal to the greater of—

“(A) the excess of—

“(i) 95 percent (90 percent in the case of taxable years beginning before January 1, 1980) of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

“(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(2); or

“(B) the excess of—

“(i) 75 percent of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

“(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(3), multiplied by a fraction the numerator of which is the real estate investment trust taxable income for the taxable year (determined without regard to the deductions provided in paragraphs (2)(B) and (2)(E), without regard to any net operating loss deduction, and by excluding any net capital gain) and the denominator of which is the gross income for the taxable year (excluding gross income from prohibited transactions; gross income and gain from foreclosure property (as defined in section 856(e), but only to the extent such gross income and gain is not described in subparagraph (A), (B), (C), (D), (E), or (G) of section 856(c)(3)); long-term capital gain; and short-term capital gain to the extent of any short-term capital loss).”

(2) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by inserting after subparagraph (D) (as redesignated by section 1606(a) of this Act) the following new subparagraph:

“(E) There shall be deducted an amount equal to the tax imposed by paragraph (5) for the taxable year.”.

26 USC 857.

Ante, p. 1742.

26 USC 856.
Post, p. 1750.

26 USC 857.

SEC. 1603. TREATMENT OF PROPERTY HELD FOR SALE TO CUSTOMERS.

26 USC 856.

(a) **ELIMINATION OF HOLDING FOR SALE RULE AS QUALIFICATION REQUIREMENT.**—Section 856(a) (defining real estate investment trust) is amended by striking out paragraph (4).

26 USC 857.

(b) **TAX ON INCOME FROM PROPERTY DESCRIBED IN SECTION 1221(1) THAT IS NOT FORECLOSURE PROPERTY.**—Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by inserting after paragraph (5) (as added by section 1602(b)(1) of this Act) the following new paragraph:

“(6) **INCOME FROM PROHIBITED TRANSACTIONS.**—

“(A) **IMPOSITION OF TAX.**—There is hereby imposed for each taxable year of every real estate investment trust a tax equal to 100 percent of the net income derived from prohibited transactions.

“(B) **DEFINITIONS.**—For purposes of this part—

“(i) the term ‘net income derived from prohibited transactions’ means the excess of the gain from prohibited transactions over the deductions allowed by this chapter which are directly connected with prohibited transactions;

“(ii) the term ‘net loss derived from prohibited transactions’ means the excess of the deductions allowed by this chapter which are directly connected with prohibited transactions over the gain from prohibited transactions; and

“(iii) the term ‘prohibited transaction’ means a sale or other disposition of property described in section 1221(1) which is not foreclosure property.”

(c) **TECHNICAL AMENDMENTS.**—

26 USC 856.

(1) So much of paragraph (3) of section 856(c) (relating to limitations) as precedes subparagraph (A) thereof is amended to read as follows:

“(3) at least 75 percent of its gross income (excluding gross income from prohibited transactions) is derived from—”

(2) Section 856(c)(2) (relating to limitations) is amended by inserting before the semicolon in subparagraph (D) thereof “which is not property described in section 1221(1)”.

(3) Section 856(c)(3) (relating to limitations) is amended by inserting before the semicolon in subparagraph (C) thereof “which is not property described in section 1221(1)”.

(4) Section 856(e)(1) (defining foreclosure property) is amended by adding at the end thereof the following sentence: “Such term does not include property acquired by the real estate investment trust as a result of indebtedness arising from the sale or other disposition of property of the trust described in section 1221(1) which was not originally acquired as foreclosure property.”

26 USC 857.

(5) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by adding a new subparagraph (F) immediately after subparagraph (E) (as added by section 1602(b)(2) of this Act), to read as follows:

“(F) There shall be excluded an amount equal to any net income derived from prohibited transactions and there shall be included an amount equal to any net loss derived from prohibited transactions.”

SEC. 1604. OTHER CHANGES IN LIMITATIONS AND REQUIREMENTS.

(a) **INCREASE IN 90-PERCENT GROSS INCOME REQUIREMENT TO 95 PERCENT.**—Section 856(c) (2) (relating to limitations) is amended by striking out “90 percent of its gross income” and inserting in lieu thereof “95 percent (90 percent for taxable years beginning before January 1, 1980) of its gross income (excluding gross income from prohibited transactions)”. 26 USC 856.

(b) **APPORTIONMENT OF RENTAL INCOME AND CHARGES FOR CUSTOMARY SERVICES: CHANGE IN DEFINITION OF INDEPENDENT CONTRACTOR.**—Subsection (d) of section 856 (defining rents from real property) is amended to read as follows:

“(d) **RENTS FROM REAL PROPERTY DEFINED.**—

“(1) **AMOUNTS INCLUDED.**—For purposes of paragraphs (2) and (3) of subsection (c), the term ‘rents from real property’ includes (subject to paragraph (2))—

“(A) rents from interests in real property,

“(B) charges for services customarily furnished or rendered in connection with the rental of real property, whether or not such charges are separately stated, and

“(C) rent attributable to personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

For purposes of subparagraph (C), with respect to each lease of real property, rent attributable to personal property for the taxable year is that amount which bears the same ratio to total rent for the taxable year as the average of the adjusted bases of the personal property at the beginning and at the end of the taxable year bears to the average of the aggregate adjusted bases of both the real property and the personal property at the beginning and at the end of such taxable year.

“(2) **AMOUNTS EXCLUDED.**—For purposes of paragraphs (2) and (3) of subsection (c), the term ‘rents from real property’ does not include—

“(A) except as provided in paragraph (4), any amount received or accrued, directly or indirectly, with respect to any real or personal property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term ‘rents from real property’ solely by reason of being based on a fixed percentage or percentages of receipts or sales);

“(B) any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

“(i) in the case of any person which is a corporation, stock of such person possessing 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stock of such person; or

“(ii) in the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

“(C) any amount received or accrued, directly or indirectly, with respect to any real or personal property if the real

estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income.

“(3) **INDEPENDENT CONTRACTOR DEFINED.**—For purposes of this subsection and subsection (e), the term ‘independent contractor’ means any person—

“(A) who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust; and

“(B) if such person is a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if such person is not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

“(4) **SPECIAL RULE FOR CERTAIN CONTINGENT RENTS.**—Where a real estate investment trust receives or accrues, with respect to real or personal property, any amount which would be excluded from the term ‘rents from real property’ solely because the tenant of the real estate investment trust receives or accrues, directly or indirectly, from subtenants any amount the determination of which depends in whole or in part on the income or profits derived by any person from such property, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from that tenant will be excluded from the term ‘rents from real property’.

“(5) **CONSTRUCTIVE OWNERSHIP OF STOCK.**—For purposes of this subsection, the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that ‘10 percent’ shall be substituted for ‘50 percent’ in subparagraph (C) of section 318(a) (2) and 318(a) (3).”

(c) **COMMITMENT FEES.**—

26 USC 856.

(1) **IN GENERAL.**—Paragraphs (2) and (3) of section 856(c) (relating to limitations) are each amended by striking out “and” after the semicolon at the end of subparagraph (E), by inserting “and” after the semicolon at the end of subparagraph (F), and by adding at the end thereof the following new subparagraph:

“(G) amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase or lease real property (including interests in real property and interests in mortgages on real property);”.

26 USC 857.

(2) **CONFORMING AMENDMENT.**—Section 857(b) (4) (B) (relating to net income from foreclosure property) is amended by striking out “(D), or (E)” in subdivision (i) and inserting in lieu thereof “(D), (E), or (G)”.

(d) **INCOME FROM SALE OF MORTGAGES HELD LESS THAN 4 YEARS.**—Section 856(c) (4) (relating to limitations) is amended to read as follows:

“(4) less than 30 percent of its gross income is derived from the sale or other disposition of—

“(A) stock or securities held for less than 6 months;
 “(B) section 1221(1) property (other than foreclosure property); and

“(C) real property (including interests in real property and interests in mortgages on real property) held for less than 4 years other than—

“(i) property compulsorily or involuntarily converted within the meaning of section 1033, and

“(ii) property which is foreclosure property within the definition of section 856(e); and”.

(e) **OPTIONS TO PURCHASE REAL PROPERTY TREATED AS INTERESTS IN REAL PROPERTY.**—Section 856(c) (6) (C) (relating to limitations) is amended to read as follows: 26 USC 856.

“(C) The term ‘interests in real property’ includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon, but does not include mineral, oil, or gas royalty interests.” “Interests in real property.”

(f) **REAL ESTATE INVESTMENT TRUSTS MAY BE INCORPORATED.**—

(1) **IN GENERAL.**—So much of subsection (a) of section 856 (defining real estate investment trust) as precedes paragraph (3) thereof is amended to read as follows:

“(a) **IN GENERAL.**—For purposes of this title, the term ‘real estate investment trust’ means a corporation, trust, or association— “Real estate investment trust.”

“(1) which is managed by one or more trustees or directors;

“(2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;”.

(2) **EXCEPTION FOR FINANCIAL INSTITUTIONS AND INSURANCE COMPANIES.**—Section 856(a) (defining real estate investment trust) is amended by inserting after paragraph (3) the following new paragraph: *Ante*, p. 1748.

“(4) which is neither (A) a financial institution to which section 585, 586, or 593 applies, nor (B) an insurance company to which subchapter L applies;”.

26 USC 801.

(3) **CONFORMING AMENDMENTS.**—

(A) So much of section 856(c) (relating to limitations) as precedes paragraph (1) thereof is amended by striking out “A trust or association” and inserting in lieu thereof “A corporation, trust, or association”.

(B) The second sentence of section 857(d) (relating to earnings and profits) is amended by striking out “a domestic unincorporated trust” and inserting in lieu thereof “a domestic corporation, trust,”. 26 USC 857.

(g) **INTEREST.**—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (e) the following new subsection:

“(f) **INTEREST.**—For purposes of paragraphs (2) (B) and (3) (B) of subsection (c), the term ‘interest’ does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that: “Interest.”

“(1) any amount so received or accrued shall not be excluded from the term ‘interest’ solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

“(2) where a real estate investment trust receives or accrues any amount which would be excluded from the term ‘interest’

solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from such debtor will be excluded from the term 'interest'.

The provisions of this subsection shall apply only with respect to amounts received or accrued pursuant to loans made after May 27, 1976. For purposes of the preceding sentence, a loan is considered to be made before May 28, 1976, if such loan is made pursuant to a binding commitment entered into before May 28, 1976."

26 USC 858.

(h) CERTAIN DIVIDENDS.—The first sentence of section 858(a) (relating to dividends paid by real estate investment trust after close of taxable year) is amended—

(1) by inserting "(and specifies in dollar amounts)" after "to the extent the trust elects in such return", and

(2) by striking out "paid during such taxable year" and inserting in lieu thereof "paid only during such taxable year".

(i) ADOPTION OF ANNUAL ACCOUNTING PERIOD.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

26 USC 860.

"SEC. 860. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle, a real estate investment trust shall not change to or adopt any annual accounting period other than the calendar year."

(2) The table of sections for such part II is amended by adding at the end thereof the following:

"Sec. 860. Adoption of annual accounting period."

26 USC 857.

(j) CHANGE IN DISTRIBUTION REQUIREMENTS.—Section 857(a) (1) (relating to requirements applicable to real estate investment trusts) is amended to read as follows:

"(1) the deduction for dividends paid during the taxable year (as defined in section 561, but determined without regard to capital gains dividends) equals or exceeds—

"(A) the sum of—

"(i) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the real estate investment trust taxable income for the taxable year (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain); and

"(ii) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the excess of the net income from foreclosure property over the tax imposed on such income by subsection (b) (4) (A); minus

"(B) the sum of—

"(i) the amount of any penalty imposed on the real estate investment trust by section 6697 which is paid by such trust during the taxable year; and

"(ii) the net loss derived from prohibited transactions, and".

Ante, p. 1745.

(k) MANNER AND EFFECT OF TERMINATION OR REVOCATION OF ELECTION.—

(1) IN GENERAL.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (f) (as added by section 1604(g) of this Act) the following new subsection: 26 USC 856.

“(g) TERMINATION OF ELECTION.—

“(1) FAILURE TO QUALIFY.—An election under subsection (c) (1) made by a corporation, trust, or association shall terminate if the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply for the taxable year with respect to which the election is made, or for any succeeding taxable year. Such termination shall be effective for the taxable year for which the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply, and for all succeeding taxable years.

“(2) REVOCATION.—An election under subsection (c) (1) made by a corporation, trust, or association may be revoked by it for any taxable year after the first taxable year for which the election is effective. A revocation under this paragraph shall be effective for the taxable year in which made and for all succeeding taxable years. Such revocation must be made on or before the 90th day after the first day of the first taxable year for which the revocation is to be effective. Such revocation shall be made in such manner as the Secretary shall prescribe by regulations.

Regulations.

“(3) ELECTION AFTER TERMINATION OR REVOCATION.—Except as provided in paragraph (4), if a corporation, trust, or association has made an election under subsection (c) (1) and such election has been terminated or revoked under paragraph (1) or paragraph (2), such corporation, trust, or association (and any successor corporation, trust, or association) shall not be eligible to make an election under subsection (c) (1) for any taxable year prior to the fifth taxable year which begins after the first taxable year for which such termination or revocation is effective.

“(4) EXCEPTION.—If the election of a corporation, trust, or association has been terminated under paragraph (1), paragraph (3) shall not apply if—

“(A) the corporation, trust, or association does not willfully fail to file within the time prescribed by law an income tax return for the taxable year with respect to which the termination of the election under subsection (c) (1) occurs;

“(B) the inclusion of any incorrect information in the return referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

“(C) the corporation, trust, or association establishes to the satisfaction of the Secretary that its failure to qualify as a real estate investment trust to which the provisions of this part apply is due to reasonable cause and not due to willful neglect.”

(2) CONFORMING AMENDMENTS.—

(A) Section 856(c)(1) (relating to limitations) is amended by striking out the semicolon at the end and inserting in lieu thereof “, and such election has not been terminated or revoked under subsection (g);”.

(B) Section 857(a) (relating to requirements applicable to real estate investment trust) is amended by striking out “(other than subsection (d) of this section)” and inserting in lieu thereof “(other than subsection (d) of this section and subsection (g) of section 856)”. 26 USC 857.

SEC. 1605. EXCISE TAX.

(a) **IMPOSITION OF TAX.**—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

“CHAPTER 44—REAL ESTATE INVESTMENT TRUSTS

“Sec. 4981. Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year.

26 USC 4981.

“SEC. 4981. EXCISE TAX BASED ON CERTAIN REAL ESTATE INVESTMENT TRUST TAXABLE INCOME NOT DISTRIBUTED DURING THE TAXABLE YEAR.

“Effective with respect to taxable years beginning after December 31, 1979, there is hereby imposed on each real estate investment trust for the taxable year a tax equal to 3 percent of the amount (if any) by which 75 percent of the real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(B), and by excluding any net capital gain for the taxable year) exceeds the amount of the dividends paid deduction (as defined in section 561, but computed without regard to capital gains dividends as defined in section 857(b)(3)(C) and without regard to any dividend paid after the close of the taxable year) for the taxable year. For purposes of the preceding sentence, the determination of the real estate investment trust taxable income shall be made by taking into account only the amount and character of the items of income and deduction as reported by such trust in its return for the taxable year.”

(b) **TECHNICAL AMENDMENTS.**—

26 USC 275.

(1) Paragraph (6) of section 275(a) (relating to denial of deduction for certain taxes) is amended by striking out “and chapter 43.” and inserting in lieu thereof “, chapter 43, and chapter 44.”

26 USC 857.

(2) Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by adding at the end thereof the following new subsection:

“(e) **CROSS REFERENCE.**—

“For provisions relating to excise tax based on certain real estate investment trust taxable income not distributed during the taxable year, see section 4981.”

26 USC 6161.

(3) Section 6161(b)(1) relating to extensions of time for payment of tax), as amended by this Act, is amended by striking out “42 or 43” and inserting in lieu thereof “42, 43, or 44”. The second sentence of section 6161(b) is amended by striking out “or chapter 43” and inserting in lieu thereof “43, or 44”.

26 USC 6211.

(4) Section 6211 (defining deficiency) is amended—

(A) by striking out “and 43” in subsection (a) and inserting in lieu thereof “43, and 44”;

(B) by striking out “or 43” in subsection (a) and inserting in lieu thereof “43, or 44”, and

(C) by striking out “or 43” in subsection (b)(2) and inserting in lieu thereof “43, or 44”.

26 USC 6212.

(5) Section 6212 (relating to notice of deficiency) is amended—

(A) by striking out “or 43” in subsection (a) and inserting in lieu thereof “43, or 44”;

(B) by striking out “or chapter 43” in subsection (b) (1) and inserting in lieu thereof “chapter 43, or chapter 44”,

26 USC 4971.
Ante, p. 1754.

(C) by striking out “chapter 43, and this chapter” in subsection (b) (1) and inserting in lieu thereof “chapter 43, chapter 44, and this chapter”, and

(D) by striking out “of chapter 43 tax for the same taxable years.” in subsection (c) (1) and inserting in lieu thereof “of chapter 43 tax for the same taxable years, of chapter 44 tax for the same taxable years.”.

(6) Section 6213(a) (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended by striking out “or 43” and inserting in lieu thereof “43, or 44”.

26 USC 6213.

(7) Section 6214 (relating to determinations by Tax Court) is amended—

26 USC 6214.

(A) by striking out “or 43” in the heading of subsection (c) and inserting in lieu thereof “43, or 44”, and

(B) by striking out “or 43” each place it appears in subsection (c) and inserting in lieu thereof “43, or 44”, and

(C) by striking out “or 43” in subsection (d) and inserting in lieu thereof “43, or 44”.

(8) Section 6344(a) (1) (relating to cross references) is amended by striking out “or 43” and inserting in lieu thereof “43, or 44”.

26 USC 6344.

(9) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out “or 43” each place it appears and inserting in lieu thereof “43, or 44”.

26 USC 6512.

(10) Section 6601(c) (relating to suspension of interest in certain income, etc. tax cases) is amended by striking out in the heading thereof “or 43” and inserting in lieu thereof “43, or 44”.

26 USC 6601.

(11) Section 7422 (relating to civil actions for refund) is amended by striking out “or 43” in subsection (e) and inserting in lieu thereof “43, or 44”.

26 USC 7422.

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following:

“Chapter 44. Real estate investment trusts.”

SEC. 1606. ALLOWANCE OF NET OPERATING LOSS CARRYOVER.

(a) ALLOWANCE OF DEDUCTION.—Section 857(b) (2) (relating to real estate investment trust taxable income) is amended by striking out subparagraph (E) and by redesignating subparagraph (F) as subparagraph (D).

26 USC 857.

(b) YEARS TO WHICH LOSS MAY BE CARRIED.—Section 172(b) (1) (relating to years to which a net operating loss may be carried) is amended by inserting after subparagraph (D) thereof the following:

26 USC 172.

“(E) In the case of a taxpayer which has a net operating loss for any taxable year for which the provisions of part II of subchapter M (relating to real estate investment trusts) apply to such taxpayer, such loss shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss, except, in the case of a net operating loss for a taxable year ending before January 1, 1976, such loss shall not be carried to the 6th, 7th, or 8th taxable year following the taxable year of such loss unless part II of subchapter M applied to the taxpayer for the taxable year to which the loss is carried and for all intervening taxable years following the year of loss.

26 USC 856.

26 USC 856.

A net operating loss shall not be carried back to a taxable year for which part II of subchapter M applied to the taxpayer."

26 USC 172.

(c) DETERMINATION OF THE AMOUNT OF THE NET OPERATING LOSS AND THE CARRYOVER.—Section 172(d) (relating to modifications in computing net operating loss) is amended by adding a new paragraph (7) at the end thereof, to read as follows:

"(7) In the case of any taxable year for which part II of subchapter M (relating to real estate investment trusts) applies to the taxpayer—

"(A) the net operating loss for such taxable year shall be computed by taking into account the adjustments described in section 857(b) (2) (other than the deduction for dividends paid described in section 857(b) (2) (B)) ; and

"(B) where such taxable year is a 'prior taxable year' referred to in paragraph (2) of subsection (b), the term 'taxable income' in such paragraph shall mean 'real estate investment trust taxable income' (as defined in section 857(b) (2))."

26 USC 857.

(d) CONFORMING AMENDMENT.—Subparagraph (B) of section 857(b) (2) (relating to real estate investment trust taxable income), as redesignated by section 1607(b) of this Act, is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (D)".

SEC. 1607. ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.

26 USC 857.

(a) ALTERNATIVE TAX.—Section 857(b) (3) (A) (relating to imposition of tax on capital gain) is amended to read as follows:

"(A) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year a real estate investment trust has a net capital gain, then, in lieu of the tax imposed by subsection (b) (1), there is hereby imposed a tax (if such tax is less than the tax imposed by such subsection) which shall consist of the sum of—

"(i) a tax, computed as provided in subsection (b) (1), on the real estate investment trust taxable income (determined by excluding such net capital gain and by computing the deduction for dividends paid without regard to capital gain dividends), and

"(ii) a tax of 30 percent of the excess of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only."

(b) CONFORMING AMENDMENTS.—

(1) (A) Section 857(b) (2) (relating to method of taxation of real estate investment trust taxable income) is amended by deleting subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

26 USC 46.

(B) Subsection (e) (2) of section 46 (relating to investment credit) is amended—

(i) by striking out "857(b) (2) (C)" in subparagraph (B) and inserting in lieu thereof "857(b) (2) (B)", and

(ii) by inserting "determined without regard to any deduction for capital gains dividends (as defined in section 857(b) (3) (C)) and by excluding any net capital gain" immediately before the period at the end of the last sentence thereof.

(C) Section 443(e) (5) (relating to cross references) is amended by striking out “857(b) (2) (D)” and inserting in lieu thereof “857(b) (2) (C)”. 26 USC 443.

(2) Subparagraph (B) of section 857(b) (2) (relating to real estate investment trust taxable income), as redesignated by paragraph (1) of this subsection, is amended by striking out “shall be computed without regard to capital gains dividends and”. 26 USC 857.

(3) Section 857(b) (3) (C) (relating to definition of capital gain dividend) is amended by inserting after the second sentence thereof the following: “For purposes of this subparagraph, the net capital gain shall be deemed not to exceed the real estate investment trust taxable income (determined without regard to the deduction for dividends paid (as defined in section 561) for the taxable year).”

SEC. 1608. EFFECTIVE DATE FOR TITLE.

(a) DEFICIENCY DIVIDEND PROCEDURES.—The amendments made by section 1601 shall apply with respect to determinations (as defined in section 859(c) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act. If the amendments made by section 1601 apply to a taxable year ending on or before the date of enactment of this Act: 26 USC 859 note. *Ante*, p. 1742.

(1) the reference to section 857(b) (3) (A) (ii) in sections 857(b) (3) (C) and 859(b) (1) (B) of such Code, as amended, shall be considered to be a reference to section 857(b) (3) (A) of such Code, as in effect immediately before the enactment of this Act, and

(2) the reference to section 857(b) (2) (B) in section 859(a) of such Code, as amended, shall be considered to be a reference to section 857(b) (2) (C) of such Code, as in effect immediately before the enactment of this Act.

(b) TRUST NOT DISQUALIFIED IN CERTAIN CASES WHERE INCOME TESTS NOT MET.—The amendment made by section 1602 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act. In addition, the amendments made by section 1602 shall apply to a taxable year of a real estate investment trust beginning before the date of the enactment of this Act if, as the result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954) with respect to such trust occurring after the date of the enactment of this Act, such trust for such taxable years does not meet the requirements of section 856(c) (2) or section 856(c) (3), or of both such sections, of such Code as in effect for such taxable year. In any case, the amendment made by section 1602(a) requiring a schedule to be attached to the income tax return of certain real estate investment trusts shall apply only to taxable years of such trusts beginning after the date of the enactment of this Act. If the amendments made by section 1602 apply to a taxable year ending on or before the date of enactment of this Act, the reference to paragraph (2) (B) in section 857(b) (5) of such Code, as amended, shall be considered to be a reference to paragraph (2) (C) of section 857(b) of such Code, as in effect immediately before the enactment of this Act. 26 USC 856 note. *Ante*, p. 1747.

(c) ALTERNATIVE TAX AND NET OPERATING LOSS.—The amendments made by sections 1606 and 1607 shall apply to taxable years ending after the date of the enactment of this Act, except that in the case of a taxpayer which has a net operating loss (as defined in section 172(c) of the Internal Revenue Code of 1954) for any taxable year ending after the date of enactment of this Act for which the provisions of 26 USC 857 note.

26 USC 856.

part II of subchapter M of chapter 1 of subtitle A of such Code apply to such taxpayer, such loss shall not be a net operating loss carryback under section 172 of such Code to any taxable year ending on or before the date of enactment of this Act.

26 USC 856
note.

(d) OTHER AMENDMENTS.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by sections 1603, 1604, and 1605 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act.

Ante, p. 1742.

(2) If, as a result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954), occurring after the date of enactment of this Act, with respect to the real estate investment trust, such trust does not meet the requirement of section 856(a) (4) of the Internal Revenue Code of 1954 (as in effect before the amendment of such section by this Act) for any taxable year beginning on or before the date of the enactment of this Act, such trust may elect, within 60 days after such determination in the manner provided in regulations prescribed by the Secretary of the Treasury or his delegate, to have the provisions of section 1603 (other than paragraphs (1), (2), (3), and (4) of section 1603(c)) apply with respect to such taxable year. Where the provisions of section 1603 apply to a real estate investment trust with respect to any taxable year beginning on or before the date of the enactment of this Act—

Ante, p. 1751.

(A) credit or refund of any overpayment of tax which results from the application of section 1603 to such taxable year shall be made as if on the date of the determination (as defined in section 859(c) of the Internal Revenue Code of 1954) 2 years remained before the expiration of the period of limitation prescribed by section 6511 of such Code on the filing of claim for refund for the taxable year to which the overpayment relates,

(B) the running of the statute of limitations provided in section 6501 of such Code on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of any deficiency (as defined in section 6211 of such Code) established by such a determination, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of such determination, and

(C) the collection of any deficiency (as defined in section 6211 of such Code) established by such determination and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof shall, except in cases of jeopardy, be stayed until the expiration of 60 days after the date of such determination.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (C) during the period for which the collection of such amount is stayed.

(3) Section 856(g) (3) of the Internal Revenue Code of 1954, as added by section 1604 of this Act, shall not apply with respect to a termination of an election, filed by a taxpayer under section 856(c) (1) of such Code on or before the date of the enactment of this Act, unless the provisions of part II of subchapter M of chapter 1 of subtitle A of such Code apply to such taxpayer for a taxable year ending after the date of the enactment of this Act for which such election is in effect.

TITLE XVII—RAILROAD AND AIRLINE PROVISIONS

SEC. 1701. CERTAIN PROVISIONS RELATING TO RAILROADS.

(a) **TREATMENT OF CERTAIN RAILROAD TIES.**—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

26 USC 263.

“(g) **RAILROAD TIES.**—In the case of a domestic common carrier by rail (including a railroad switching or terminal company) which uses the retirement-replacement method of accounting for depreciation of its railroad track, expenditures for acquiring and installing replacement ties of any material (and fastenings related to such ties) shall be accorded the same tax accounting treatment as expenditures for replacement ties of wood (and fastenings related to such ties).”

(b) **INCREASE IN 50-PERCENT LIMITATION.**—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof the following new paragraph:

26 USC 46.

“(8) **ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN RAILROADS.**—

“(A) **IN GENERAL.**—If, for a taxable year ending after calendar year 1976, and before calendar year 1983, the amount of the qualified investment of the taxpayer which is attributable to railroad property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (3) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

“(B) **APPLICABLE PERCENTAGE.**—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

“(i) 50 percent, plus

“(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is railroad property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

“(C) **TENTATIVE PERCENTAGE.**—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

“If the taxable year ends in:	The tentative percentage is:
1977 or 1978.....	50
1979	40
1980	30
1981	20
1982	10

“(D) **RAILROAD PROPERTY DEFINED.**—For purposes of this paragraph, the term ‘railroad property’ means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of operating a railroad (including a railroad switching or terminal company).”

SEC. 1702. AMORTIZATION OVER 50-YEAR PERIOD OF RAILROAD GRADING AND TUNNEL BORES PLACED IN SERVICE BEFORE 1969.

26 USC 185.

(a) **IN GENERAL.**—Section 185 (relating to amortization of railroad grading and tunnel bores) is amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (f), (g), (h), (i), and (j), respectively, and by inserting after subsection (c) the following new subsections:

“(d) **ELECTION WITH RESPECT TO PRE-1969 PROPERTY.**—A taxpayer may, for any taxable year beginning after December 31, 1974, elect for purposes of this section to treat the term ‘qualified railroad grading and tunnel bores’ as including pre-1969 railroad grading and tunnel bores. An election under this subsection shall be made by filing with the Secretary, in such manner, in such form, and within such time, as the Secretary may by regulations prescribe, a statement of such election. The election under this subsection shall remain in effect for all taxable years, after the first year for which it is effective, for which an election under subsection (c) is effective. The election under this subsection shall apply to all pre-1969 railroad grading and tunnel bores of the taxpayer, unless, on application by the taxpayer, the Secretary permits him, subject to such conditions as the Secretary deems necessary, to revoke such election.

Filing
requirement.

“(e) **ADJUSTED BASIS FOR PRE-1969 RAILROAD GRADING AND TUNNEL BORES.**—

“(1) **IN GENERAL.**—The adjusted basis of any pre-1969 railroad grading and tunnel bore shall be determined under this subsection.

“(2) **PROPERTY ACQUIRED OR CONSTRUCTED AFTER FEBRUARY 28, 1913.**—

“(A) In the case of pre-1969 railroad grading and tunnel bores—

“(i) acquired by the taxpayer after February 28, 1913, or

“(ii) the construction of which was completed by the taxpayer after February 28, 1913, the adjusted basis of such property shall be equal to the adjusted basis (for determining gain) of such property in the hands of the taxpayer.

“(B) In the case of property described in subparagraph (A) (i)—

“(i) which was in existence on February 28, 1913,

“(ii) for which the taxpayer has a substituted basis, and

“(iii) such substituted basis for which would, but for the provisions of this section, be determined under section 1053,

then the adjusted basis of such property shall be determined as if such property were property described in paragraph (3) (A).

“(3) **PROPERTY ACQUIRED OR CONSTRUCTED BEFORE MARCH 1, 1913.**—

“(A) In the case of pre-1969 railroad grading and tunnel bores—

“(i) acquired by the taxpayer before March 1, 1913, or

“(ii) the construction of which was completed by the taxpayer before March 1, 1913,

the adjusted basis of such property shall be determined under the provisions of subparagraph (B), (C), or (D) of this paragraph.

“(B) In the case of any property valued under an original valuation made by the Interstate Commerce Commission pursuant to section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a), the adjusted basis of such property shall be equal to the amount ascertained by the Interstate Commerce Commission as of the date of such valuation to be such property’s cost of reproduction new (as the term ‘cost of reproduction new’ is used in such section 19a).

“(C) In the case of property which was not valued by the Interstate Commerce Commission in the manner described in subparagraph (B), but which was valued under an original valuation made by a comparable State regulatory body, the adjusted basis of such property shall be equal to the amount ascertained by such State regulatory body as of the date of its original valuation to be such property’s value.

“(D) If, in the case of any property to which this paragraph applies—

“(i) neither subparagraph (B) nor (C) applies, or

“(ii) notwithstanding subparagraphs (B) and (C), either the taxpayer or the Secretary can establish the adjusted basis (for purposes of determining gain) of such property in the hands of the taxpayer,

then the adjusted basis of such property shall be equal to its adjusted basis (for purposes of determining gain) in the hands of the taxpayer.”

(b) DEFINITION OF PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—Subsection (f) of section 185 (as redesignated by subsection (a) of this section) is amended by adding at the end thereof the following new paragraph:

26 USC 185.

“(3) PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—The term ‘pre-1969 railroad grading and tunnel bores’ means railroad grading and tunnel bores the original use of which commences before January 1, 1969.”

SEC. 1703. CERTAIN PROVISIONS RELATING TO AIRLINES.

Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof the following new paragraph:

26 USC 46.

“(9) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN AIRLINES.—

“(A) IN GENERAL.—If, for a taxable year ending after calendar year 1976 and before calendar year 1983, the amount of the qualified investment of the taxpayer which is attributable to airline property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (3) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

“(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

“(i) 50 percent, plus

“(ii) that portion of the tentative percentage for the taxable year which the taxpayer’s amount of qualified

investment which is airline property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

“(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

“If the taxable year ends in:	The tentative percentage is:
1977 or 1978-----	50
1979 -----	40
1980 -----	30
1981 -----	20
1982 -----	10

“(D) AIRLINE PROPERTY DEFINED.—For purposes of this paragraph, the term ‘airline property’ means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of the furnishing or sale of transportation as a common carrier by air subject to the jurisdiction of the Civil Aeronautics Board or the Federal Aviation Administration.”

TITLE XVIII—INTERNATIONAL TRADE AMENDMENTS

SEC. 1801. UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) TERMS OF OFFICE.—The last sentence of section 330(b) of the Tariff Act of 1930 (19 U.S.C. 1330(b)) is amended to read as follows: “The term of office of each commissioner appointed after such date shall expire 9 years from the date of the expiration of the term for which his predecessor was appointed, except that—

“(1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and

“(2) any commissioner may continue to serve as a commissioner after an expiration of his term of office until his successor is appointed and qualified.”

(b) VOTING PROCEDURES.—Section 330(d) of the Tariff Act of 1930 is amended by—

(1) redesignating paragraph (2) as paragraph (5); and

(2) striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

“(1) In a proceeding in which the Commission is required to determine—

“(A) under section 201 of the Trade Act of 1974, whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, as described in subsection (b) (1) of that section (hereafter in this subsection referred to as ‘serious injury’), or

“(B) under section 406 of such Act, whether market disruption exists,

and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by

19 USC 1330.

19 USC 2251.

19 USC 2436.

either group of commissioners may be considered by the President as the determination of the Commission.

“(2) If under section 201 or 406 of the Trade Act of 1974 there is an affirmative determination of the Commission, or a determination of the Commission which the President may consider an affirmative determination under paragraph (1), that serious injury or market disruption exists, respectively, and a majority of the commissioners voting are unable to agree on a finding or recommendation described in section 201(d) (1) of such Act or the finding described in section 406(a) (3) of such Act, as the case may be (hereafter in this subsection referred to as a ‘remedy finding’), then—

19 USC 2251,
2436.

“(A) if a plurality of not less than three commissioners so voting agree on a remedy finding, such remedy finding shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

19 USC 2252,
2253.

“(B) if two groups, both of which include not less than 3 commissioners, each agree upon a remedy finding and the President reports under section 203(b) of such Act that—

“(i) he is taking the action agreed upon by one such group, then the remedy finding agreed upon by the other group shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

“(ii) he is taking action which differs from the action agreed upon by both such groups, or that he will not take any action, then the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission and shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission.

Congressional
consideration.

“(3) In any proceeding to which paragraph (1) applies in which the commissioners voting are equally divided on a determination that serious injury exists, or that market disruption exists, the Commission shall report to the President the determination of each group of commissioners. In any proceeding to which paragraph (2) applies, the Commission shall report to the President the remedy finding of each group of commissioners voting.

Report to
President.

“(4) In a case to which paragraph (2) (B) (ii) applies, for purposes of section 203(c) (1) of the Trade Act of 1974, notwithstanding section 152(a) (1) (A) of such Act, the second blank space in the concurrent resolution described in such section 152 shall be filled with the appropriate date and the following: ‘The action which shall take effect under section 203(c) (1) of the Trade Act of 1974 is the finding or recommendation agreed upon by Commissioners _____, _____, and _____.’ The three blank spaces shall be filled with the names of the appropriate Commissioners.”

19 USC 2253.
19 USC 2192.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to determinations, findings, and recommendations made under sections 201 and 406 of the Trade Act of 1974 after the date of the enactment of this Act.

19 USC 1330
note.

SEC. 1802. TRADE ACT OF 1974 AMENDMENTS.

Section 502(b) of the Trade Act of 1974 (Public Law 93-618; 88 Stat. 1978) is amended—

19 USC 2462.

(1) by striking out “and” at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof “; and”;

(3) by inserting immediately after paragraph (6) the following new paragraph:

“(7) if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.”; and

(4) by striking out “and (6)” in the unnumbered paragraph at the end of such section and inserting in lieu thereof “(6), and (7)”.

TITLE XIX—REPEAL AND REVISION OF OBSOLETE, RARELY USED, ETC., PROVI- SIONS OF INTERNAL REVENUE CODE OF 1954

SUBTITLE A—AMENDMENTS OF INTERNAL REVENUE CODE GENERALLY

SEC. 1901. AMENDMENTS OF SUBTITLE A; INCOME TAXES.

(a) IN GENERAL.—

26 USC 2.

(1) AMENDMENT OF SECTION 2.—Subsection (c) of section 2 (relating to certain married individuals living apart) is amended to read as follows:

“(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 143(b).”

26 USC 35.

(2) REPEAL OF SECTION 35.—Section 35 (relating to partially tax-exempt interest received by individuals) is repealed.

26 USC 39.

(3) AMENDMENT OF SECTION 39.—Section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out subsections (b) and (c) and inserting after subsection (a) the following new subsection:

“(b) EXCEPTION.—Credit shall not be allowed under subsection (a) for any amount payable under section 6421, 6424, or 6427, if a claim for such amount is timely filed and, under section 6421(i), 6424(f), or 6427(f), is payable under such section.”

26 USC 46.

(4) AMENDMENTS OF SECTION 46.—

(A) The second sentence of section 46(a)(4), as redesignated by this Act, is amended by striking out “section 408(e)” and inserting in lieu thereof “section 408(f)”.

(B) Clause (iii) of section 46(c)(3)(B) (relating to public utility property) is amended by striking out “47 U.S.C., sec. 222(a)(5)” and inserting in lieu thereof “47 U.S.C. 222(a)(5)”.

26 USC 48.

(5) AMENDMENTS OF SECTION 48.—

(A) Section 48(a)(2)(B)(vi) (relating to section 38 property used outside the United States) is amended by striking out “; 43 U.S.C., sec. 1331)” and inserting in lieu thereof “(43 U.S.C. 1331))”.

(B) Section 48(a)(2)(B)(viii) is amended by striking out “47 U.S.C., sec. 702” and inserting in lieu thereof “47 U.S.C. 702”.

(6) AMENDMENT OF SECTION 50A.—The second sentence of section 50A(a)(3) (relating to liability for tax) is amended by striking out “section 408(e)” and inserting in lieu thereof “section 408(f)”. 26 USC 50A.

(7) REPEAL OF SECTION 51.—Subchapter A of chapter 1 is amended by striking out part V (relating to tax surcharge). 26 USC 51.

(8) AMENDMENTS OF SECTION 62.—Section 62 (relating to definition of adjusted gross income) is amended by redesignating paragraph (11), as added by the Act of October 26, 1974 (Public Law 93-483), as paragraph (12). 26 USC 62.

(9) ADDITIONAL AMENDMENT OF SECTION 62.—Section 62(12), as redesignated by subparagraph (A) of this paragraph, is amended by striking out “trade or business to the extent” and inserting in lieu thereof “trade or business, to the extent”.

(10) DEFINITION OF ORDINARY INCOME.—Part I of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income, and taxable income) is amended by adding at the end thereof the following new section: 26 USC 61.

“SEC. 64. ORDINARY INCOME DEFINED.

“For purposes of this subtitle, the term ‘ordinary income’ includes any gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b). Any gain from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as ‘ordinary income’ shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b).” 26 USC 64.

(11) DEFINITION OF ORDINARY LOSS.—Part I of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income, and taxable income) is amended by adding at the end thereof the following new section: 26 USC 61.

“SEC. 65. ORDINARY LOSS DEFINED.

“For purposes of this subtitle, the term ‘ordinary loss’ includes any loss from the sale or exchange of property which is not a capital asset. Any loss from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as ‘ordinary loss’ shall be treated as loss from the sale or exchange of property which is not a capital asset.” 26 USC 65.

(12) AMENDMENT OF SECTION 72.—Section 72(d)(1) (relating to employees’ annuities) is amended by striking out “(whether or not before January 1, 1954)” and by striking out “(under this paragraph and prior income tax laws)”. 26 USC 72.

(13) ADDITIONAL AMENDMENT OF SECTION 72.—Section 72(m)(4)(A) (relating to assignments or pledges) is amended by striking out “an individual retirement amount” and inserting in lieu thereof “an individual retirement account”. 26 USC 76.

(14) REPEAL OF SECTION 76.—Section 76 (relating to mortgages made or obligations issued by joint stock land banks) is repealed. 26 USC 83.

(15) AMENDMENT OF SECTION 83.—Section 83(b)(2) (relating to election to include the value of restricted property in gross income) is amended by striking out “(or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969)”. 26 USC 1 note.

(16) AMENDMENT OF SECTION 101.—Section 101 is amended by striking out subsection (f) (relating to effective date of section). 26 USC 101.

(17) AMENDMENTS OF SECTION 103.—

(A) Section 103(a) (relating to tax-exempt interest), as amended by this Act, is amended by inserting “and” at the 26 USC 103.

end of paragraph (1), by striking out paragraphs (2) and (3), and by redesignating paragraph (4) as paragraph (2).

26 USC 103.

(B) Section 103 is amended by striking out subsection (b) (relating to certain exceptions) and by redesignating subsections (c), (d), (e), (f), and (g) (as added by this Act) as subsections (b), (c), (d), (e), and (f) respectively.

(C) Section 103(b)(1) (relating to industrial development bonds), as redesignated by subparagraph (B) of this paragraph, is amended by inserting "or (2)" after "(a)(1)".

(D) Section 103(c)(2)(A) (relating to definition of arbitrage bonds), as redesignated by subparagraph (B) of this paragraph, is amended by inserting "or (2)" after "(a)(1)".

(E) Section 103(e) (relating to certain cross references) as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(e) CROSS REFERENCES.—

"For provisions relating to the taxable status of—

"(1) Puerto Rican bonds, see section 3 of the Act of March 2, 1917, as amended (48 U.S.C. 745).

"(2) Virgin Islands insular and municipal bonds, see section 1 of the Act of October 27, 1919 (48 U.S.C. 1403).

"(3) Certain obligations issued under title I of the Housing Act of 1949, see section 102(g) of title I of such Act (42 U.S.C. 1452(g))."

(18) AMENDMENTS OF SECTION 104.—

26 USC 104.

(A) Section 104(a)(4) (relating to exclusion of compensation for injuries or sickness) is amended by striking out "; 60 Stat. 1021".

(B) Section 104(c)(2) as redesignated by section 505 of this Act, is amended to read as follows:

"(2) For exclusion of part of disability retirement pay from the application of subsection (a)(4) of this section, see section 1403 of title 10, United States Code (relating to career compensation laws)."

26 USC 115.

(19) AMENDMENT OF SECTION 115.—Section 115 (relating to income of States, municipalities, etc.) is amended to read as follows:

"SEC. 115. INCOME OF STATES, MUNICIPALITIES, ETC.

"Gross income does not include—

"(1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia; or

"(2) income accruing to the government of any possession of the United States, or any political subdivision thereof."

26 USC 116.

(20) AMENDMENT OF SECTION 116.—Subsection (a) of section 116 (relating to partial exclusion of dividends received by individuals) is amended by striking out "Effective with respect to any taxable year ending after July 31, 1954, gross income" and inserting in lieu thereof "Gross income".

26 USC 124.

(21) AMENDMENT OF SECTION 124.—Section 124 (relating to cross references to other Acts) is amended to read as follows:

"SEC. 124. CROSS REFERENCES TO OTHER ACTS.

"(a) For exemption of—

"(1) Adjustments of indebtedness under wage earners' plans, see section 679 of the Bankruptcy Act (11 U.S.C. 1079).

"(2) Allowances and expenditures to meet losses sustained by persons serving the United States abroad, due to appreciation of foreign currencies, see section 5943 of title 5, United States Code.

“(3) Amounts credited to the Maritime Administration under section 9(b)(6) of the Merchant Ship Sales Act of 1946, see section 9(c)(1) of that Act (50 U.S.C. App. 1742).”

“(4) Benefits under laws administered by the Veterans’ Administration, see section 3101 of title 38, United States Code.”

“(5) Earnings of ship contractors deposited in special reserve funds, see section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177).”

“(6) Income derived from Federal Reserve banks, including capital stock and surplus, see section 7 of the Federal Reserve Act (12 U.S.C. 531).”

“(7) Railroad retirement annuities and pensions, see section 12 of the Railroad Retirement Act of 1935 (45 U.S.C. 2281).”

“(8) Railroad unemployment benefits, see section 2(e) of the Railroad Unemployment Insurance Act (45 U.S.C. 352).”

“(9) Special pensions of persons on Army and Navy medal of honor roll, see 38 U.S.C. 562(a)–(c).”

“(b) For extension of military income-tax-exemption benefits to commissioned officers of Public Health Service in certain circumstances, see section 212 of the Public Health Service Act (42 U.S.C. 213).”

(22) AMENDMENT OF SECTION 143.—Section 143 (relating to determination of marital status) is amended by striking out “this part” each place it appears and inserting in lieu thereof “this part and part V”. 26 USC 143.

(23) AMENDMENT OF SECTION 151.—Section 151(e) (4) (defining student and educational institution) is amended to read as follows: 26 USC 151.

“(4) STUDENT DEFINED.—For purposes of paragraph (1)(B) (ii), the term ‘student’ means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

“(A) is a full-time student at an educational organization described in section 170(b) (1) (A) (ii) ; or

“(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b) (1) (A) (ii) or of a State or political subdivision of a State.”

(24) AMENDMENTS OF SECTION 152.—

(A) Section 152(a) (defining dependent) is amended— 26 USC 152.

(i) by inserting “or” at the end of paragraph (8),

(ii) by striking out “, or” at the end of paragraph (9) and inserting in lieu thereof a period, and

(iii) by striking out paragraph (10).

(B) Section 152(b) (3) (relating to rules concerning the definition of dependent) is amended to read as follows:

“(3) The term ‘dependent’ does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of ‘dependent’ any child of the taxpayer legally adopted by him, if, for the taxable year of the taxpayer, the child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer’s household, and if the taxpayer is a citizen or national of the United States.” “Dependent.”

(25) AMENDMENTS OF SECTION 164.—Section 164(d) (2) (relating to apportionment of taxes on real property between the seller and purchaser) is amended by striking out subparagraphs (B) and (C), and by redesignating subparagraph (D) as subparagraph (B). 26 USC 164.

(26) AMENDMENTS OF SECTION 165.—Section 165 (relating to deduction of losses) is amended by striking out subsection (i) 26 USC 165.

(relating to property confiscated by Cuba), and by redesignating subsection (j) as subsection (i).

26 USC 167.

(27) AMENDMENTS OF SECTION 167.—

(A) Section 167(d) (relating to agreement as to useful life for depreciation) is amended by striking out “after the date of enactment of this title” and inserting in lieu thereof “after August 16, 1954”.

(B) Section 167(f)(2) (defining personal property) is amended by striking out “the date of the enactment of the Revenue Act of 1962” and inserting in lieu thereof “October 16, 1962”.

(C) Section 167(l)(4)(A) (relating to election as to increased-capacity property) is amended by striking out “within 180 days after the date of the enactment of this subparagraph” and inserting in lieu thereof “before June 29, 1970”.

26 USC 170.

(28) AMENDMENTS OF SECTION 170.—

(A)(i) Section 170 (relating to charitable deductions) is amended by striking out subsections (f)(6) and (g) (relating to unlimited charitable deductions allowed for taxable years beginning before January 1, 1975), and by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively.

(ii) Section 170(b)(1) (relating to percentage limitations on deductions for individuals) is amended by striking out subparagraph (C) (relating to unlimited deductions), and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(iii) Section 170(b)(1)(A)(vii) is amended by striking out “subparagraph (E)” and inserting in lieu thereof “subparagraph (D)”.

(iv) Section 170(b)(1)(B)(ii) is amended by striking out “subparagraph (D)” and inserting in lieu thereof “subparagraph (C)”.

(v) Section 170(e) (relating to definition of charitable contribution) is amended by striking out in the last sentence “subsection (h)” and inserting in lieu thereof “subsection (g)”.

(vi) Section 170(e)(1)(B)(ii) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out “subsection (b)(1)(E)” and inserting in lieu thereof “subsection (b)(1)(D)”.

(B) Section 170(d)(1)(A) (relating to carryover of excess charitable contributions) is amended by striking out “(30 percent, in the case of a contribution year beginning before January 1, 1970)”.

(C) Section 170(h) (relating to disallowance of deductions in certain cases), as redesignated by subparagraph (A)(i) of this paragraph, is amended by striking out “64 Stat. 996;”.

(D) Section 170(i) (relating to cross references), as redesignated by subparagraph (A)(i) of this paragraph, is amended to read as follows:

“(i) OTHER CROSS REFERENCES.—

“(1) For charitable contributions of estates and trusts, see section 642(c).

"(2) For nondeductibility of contributions by common trust funds, see section 584.

"(3) For charitable contributions of partners, see section 702.

"(4) For charitable contributions of nonresident aliens, see section 873.

"(5) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for use of the United States, see section 6973 of title 10, United States Code.

"(6) For treatment of gifts accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(7) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)."

(29) AMENDMENTS OF SECTION 172.—

(A) (i) Section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out subparagraph (E). *Ante*, p. 1755.

(ii) Section 172(b)(3) is amended by striking out subparagraphs (E) and (F). 26 USC 172.

(B) Section 172(c) (relating to definition of net operating loss) is amended by striking out "(for any taxable year ending after December 31, 1953)".

(C) (i) Section 172 (relating to net operating loss deduction) is amended by striking out subsections (f), (g), and (i), and by redesignating subsections (h), (j), (k), and (l) as subsections (f), (g), (h), and (i), respectively.

(ii) Section 172(b)(1)(C) (relating to regulated transportation corporations) is amended by striking out "subsection (j)(1)" and "subsection (j)", and inserting in lieu thereof "subsection (g)(1)" and "subsection (g)", respectively.

(iii) Paragraphs (1)(D) and (3)(C)(i) of section 172 (b) (relating to net operating loss carryovers and carrybacks) are each amended by striking out "subsection (k)" and inserting in lieu thereof "subsection (h)". *Post*, p. 1920.

(iv) Section 172(b)(2) (relating to amount of carrybacks and carryovers) is amended by striking out "subsections (i) and (j)" and inserting in lieu thereof "subsection (g)".

(D) Section 172(e) (relating to law applicable to computations) is amended by striking out the last sentence.

(E) Section 172(g)(2) (relating to certain regulated transportation corporations), as redesignated by subparagraph (C) of this paragraph, is amended by striking out paragraph (4).

26 USC 174,
175.

(30) AMENDMENTS OF SECTIONS 174 AND 175.—Section 174(a)(2) (A) (i) (relating to research and development expenditures) and section 175(d)(1)(A) (relating to soil and water conservation expenditures) are each amended by striking out "the date on which this title is enacted," and inserting in lieu thereof "August 16, 1954".

(31) REPEAL OF SECTION 187.—Section 187 (relating to rapid amortization for certain coal mine safety equipment) is repealed. 26 USC 187.

(32) AMENDMENT OF SECTION 219.—Section 219(b)(2)(A)(iv) (disqualifying governmental plan participants from contributing to individual retirement accounts, etc.) is amended by striking out "division" and inserting in lieu thereof "subdivision". 26 USC 219.

(33) REPEAL OF SECTION 242.—Section 242 (relating to partially tax-exempt interest received by corporations) is repealed. 26 USC 242.

(34) AMENDMENTS OF SECTION 243.—

26 USC 243.

(A) Section 243(a)(2) (relating to the dividends received deduction) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(B) Section 243(b)(2)(A) (relating to dividends received by a member of an affiliated group) is amended by striking out "(except that in the case of a taxable year of a member beginning in 1963 and ending in 1964, if the election is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, such election shall be effective for such taxable year of such member, if such member consents to such election with respect to such taxable year)".

26 USC 247.

(35) AMENDMENT OF SECTION 247.—Section 247(b)(2) (relating to preferred stock) is amended to read as follows:

"(2) PREFERRED STOCK.—

"(A) IN GENERAL.—The term 'preferred stock' means stock issued before October 1, 1942, which during the whole of the taxable year (or the part of the taxable year after its issue) was stock the dividends in respect of which were cumulative, limited to the same amount, and payable in preference to the payment of dividends on other stock.

"(B) CERTAIN STOCK ISSUED ON OR AFTER OCTOBER 1, 1942.—Stock issued on or after October 1, 1942, shall be deemed for purposes of this paragraph to have been issued before October 1, 1942, if it was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock (including stock which is preferred stock by reason of this subparagraph or subparagraph (D)), but only to the extent that the par or stated value of the new stock does not exceed the par, stated, or face value of the bonds or debentures issued before October 1, 1942, or the other preferred stock, which such new stock is issued to refund or replace.

Regulations.

"(C) DETERMINATION UNDER REGULATIONS.—The determination of whether stock was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock, shall be made under regulations prescribed by the Secretary.

"(D) ISSUANCE OF STOCK.—For purposes of subparagraph (B), issuance of stock includes issuance either by the same or another corporation in a transaction which is a reorganization (as defined in section 368(a)), a transaction to which section 371 (relating to insolvency reorganizations) applies, or a transaction subject to part VI of subchapter O (relating to exchanges in SEC obedience orders), or the respectively corresponding provisions of the Internal Revenue Code of 1939."

26 USC 1081.

53 Stat. 1.

26 USC 248.

(36) AMENDMENT OF SECTION 248.—Section 248(c) (relating to organizational expenditures) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

26 USC 265.

(37) AMENDMENT OF SECTION 265.—Section 265(2) (relating to tax-exempt interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(38) AMENDMENT OF SECTION 269.—Section 269 (relating to acquisitions made to evade or avoid income tax) is amended by striking out subsection (c) (relating to presumption in the case of disproportionate purchase price). 26 USC 269.

(39) AMENDMENT OF SECTION 275.—Section 275(a)(1)(C) (relating to nondeductible taxes) is amended by striking out “, and corresponding provisions of prior revenue laws”. 26 USC 275.

(40) AMENDMENTS OF SECTION 281.—

(A) Section 281(d)(1)(A) (relating to definition of terminal railroad corporation) is amended by inserting after “Interstate Commerce Act” the following: “(49 U.S.C. 1 and following)”. 26 USC 281.

(B) Section 281 (relating to terminal railroad corporations and their shareholders) is amended by striking out subsection (e) (relating to taxable years ending before October 23, 1962) and by redesignating subsection (f) as subsection (e).

(41) AMENDMENT OF SECTION 301.—Section 301 (relating to distributions of property) is amended by striking out subsection (e) (relating to certain distributions by personal service corporations). 26 USC 301.

(42) AMENDMENTS OF SECTION 311.—

(A) Section 311(d)(1) (relating to appreciated property used to redeem stock) is amended by striking out “then again shall be recognized” and inserting in lieu thereof “then a gain shall be recognized”. 26 USC 311.

(B)(i) Section 311(d)(2) (relating to exceptions and limitations) is amended by striking out subparagraph (C) (relating to certain distributions before December 1, 1974) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(ii) The amendments made by clause (i) shall apply only with respect to distributions after November 30, 1974. 26 USC 311 note.

(C) Section 311(d)(2)(C), as redesignated by subparagraph (B) of this paragraph, is amended by striking out “26 Stat. 209;” and “38 Stat. 730;”.

(43) AMENDMENTS OF SECTION 312.—

(A) Section 312(d)(1) (relating to certain distributions of stock and securities) is amended by striking out “this Code” each place it appears and inserting in lieu thereof “this title”. 26 USC 312.

(B) Section 312 (relating to earnings and profits) is amended by striking out subsection (h) (relating to personal service corporations) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(C) Subsection (i) of section 312 (relating to distribution of proceeds of certain loans), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

“(i) DISTRIBUTION OF PROCEEDS OF LOAN INSURED BY THE UNITED STATES.—If a corporation distributes property with respect to its stock and if, at the time of distribution—

“(1) there is outstanding a loan to such corporation which was made, guaranteed, or insured by the United States (or by any agency or instrumentality thereof), and

“(2) the amount of such loan so outstanding exceeds the adjusted basis of the property constituting security for such loan, then the earnings and profits of the corporation shall be increased by

the amount of such excess, and (immediately after the distribution) shall be decreased by the amount of such excess. For purposes of paragraph (2), the adjusted basis of the property at the time of distribution shall be determined without regard to any adjustment under section 1016(a)(2) (relating to adjustment for depreciation, etc.). For purposes of this subsection, a commitment to make, guarantee, or insure a loan shall be treated as the making, guaranteeing, or insuring of a loan."

26 USC 312.

(D) Section 312(j)(3) (relating to foreign investment companies), as redesignated by subsection (b)(32)(B)(i), is amended to read as follows:

"(3) PARTIAL LIQUIDATIONS AND REDEMPTIONS.—If a foreign investment company (as defined in section 1246) distributes amounts in partial liquidation or in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of the company accumulated after February 28, 1913, attributable to the stock so redeemed."

26 USC 333.

(44) AMENDMENT OF SECTION 333.—Section 333(a)(1) (relating to election as to recognition of gain in certain liquidations) is amended by striking out "on or after June 22, 1954".

26 USC 334.

(45) AMENDMENT OF SECTION 334.—Section 334(b)(2)(A) (relating to liquidation of subsidiary) is amended to read as follows:

"(A) the distribution is pursuant to a plan of liquidation adopted not more than 2 years after the date of the transaction described in subparagraph (B) (or, in the case of a series of transactions, the date of the last such transaction); and".

26 USC 337.

(46) AMENDMENTS OF SECTION 337.—

(A) Section 337(a) (relating to nonrecognition of gain or loss on certain liquidations) is amended to read as follows:

"(a) GENERAL RULE.—If, within the 12-month period beginning on the date on which a corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims, then no gain or loss shall be recognized to such corporation from the sale or exchange by it of property within such 12-month period."

(B) The first sentence of section 337(d) (relating to certain minority stockholders) is amended by striking out "on or after January 1, 1958".

26 USC 342.

(47) REPEAL OF SECTION 342.—Section 342 (relating to the liquidation of certain foreign personal holding companies) is repealed.

26 USC 351

(48) AMENDMENTS OF SECTION 351.—

(A) Section 351(a) (relating to transfer to corporation controlled by transferor) is amended by striking out "(including, in the case of transfers made on or before June 30, 1967, an investment company)".

(B) Section 351(d) (relating to application of June 30, 1967, date) is amended to read as follows:

"(d) EXCEPTION.—This section shall not apply to a transfer of property to an investment company."

26 USC 351
note.

(C) The amendments made by this paragraph shall take effect with respect to transfers of property occurring after the date of the enactment of this Act.

(49) REPEAL OF SECTION 363.—Section 363 (a cross reference to other sections) is repealed. 26 USC 363.

(50) AMENDMENTS OF SECTION 371.—Section 371(a)(1) (relating to certain reorganization exchanges by corporations) is amended— 26 USC 371.

(A) by striking out “49 Stat. 922;” and

(B) by striking out “(52 Stat. 883-905; 11 U.S.C., chapter 10) or the corresponding provisions of prior law” and inserting in lieu thereof “(11 U.S.C. 501 and following)”.

(51) AMENDMENT OF SECTION 372.—Section 372(a) (relating to basis in connection with bankruptcy proceedings) is amended by striking out “54 Stat. 709;”. 26 USC 372.

(52) REPEAL OF SECTION 373.—Section 373 (relating to nonrecognition of loss in certain railroad reorganizations) is repealed. 26 USC 373.

(53) AMENDMENT OF SECTION 374.—Section 374(a)(1) (relating to nonrecognition of gain or loss in certain railroad reorganizations) is amended by striking out “49 Stat. 922;”. 26 USC 374.

(54) AMENDMENT OF SECTION 381.—Section 381(c) (relating to items carried over in certain corporate acquisitions) is amended by striking out paragraph (20). 26 USC 381.

(55) REPEAL OF SECTIONS 391 THROUGH 395.—Subchapter C of chapter 1 (relating to corporate distributions and adjustments) is amended by striking out part VII (relating to effective dates of subchapter C). 26 USC 391-395.

(56) AMENDMENTS OF SECTION 401.—

(A) Paragraphs (12) and (13) of section 401(a) (relating to requirements for qualification) are each amended by striking out “the date of the enactment of the Employee Retirement Income Security Act of 1974” and inserting in lieu thereof “September 2, 1974”. 26 USC 401.

(B) Paragraph (15) of section 401(a) is amended by striking out “the date of the enactment of the Employee Retirement Income Security Act of 1974” and inserting in lieu thereof “September 2, 1974”.

29 USC 1001 note.

(C) Paragraph (19) of section 401(a) is amended by striking out “enactment of the Employee Retirement Income Security Act of 1974” and inserting in lieu thereof “September 2, 1974”.

(D) The last sentence of section 401(a) is amended to read as follows:

“Paragraphs (11), (12), (13), (14), (15), (19), and (20) shall apply only in the case of a plan to which section 411 (relating to minimum vesting standards) applies without regard to subsection (e) (2) of such section.”

(57) AMENDMENTS OF SECTION 402.—

(A) Section 402(a)(4) (relating to distributions made to non-resident alien individuals) is amended by striking out “basic salary” each place it appears therein and inserting in lieu thereof “basic pay”, and by amending the last sentence in such paragraph to read as follows: 26 USC 402.

“In the case of distributions under the civil service retirement laws, the term ‘basic pay’ shall have the meaning provided in section 8331(3) of title 5, United States Code.”

(B) Section 402 (relating to taxability of beneficiary of employees’ trusts) is amended by striking out subsection (d) (relating to certain trust agreements made before October 21, 1942).

- 26 USC 402. (C) (i) So much of the third sentence of section 402(e) (4) (A) (relating to definition of lump sum distributions) as precedes "a distribution of an annuity contract" is amended to read as follows: "Except for purposes of subsection (a) (2) and section 403(a) (2),".
- 26 USC 402 note. (ii) The amendment made by clause (i) shall apply with respect to distributions or payments made after December 31, 1973, in taxable years beginning after such date.
- 26 USC 403. (58) AMENDMENT OF SECTION 403.—The last two sentences of section 403(a) (4) (relating to taxation of employee annuities) are amended to read as follows: "For purposes of this title, a transfer described in subparagraph (B) (i) shall be treated as a rollover contribution described in section 408(d) (3). Subparagraph (B) (ii) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of a payment described in subparagraph (A) is attributable to an annuity plan under which the employee was an employee within the meaning of section 401(c) (1) at the time contributions were made on his behalf under the plan."
- 26 USC 404. (59) AMENDMENT OF SECTION 404.—Section 404 (relating to deduction for contributions to pension plans, etc.) is amended by striking out subsection (d) (relating to carryover of pre-1954 unused deductions).
- 26 USC 409. (60) AMENDMENT OF SECTION 409.—Section 409(b) (3) (C) (relating to tax-free rollovers of individual retirement bonds) is amended by striking out "section 403(d) (3)." and inserting in lieu thereof "section 408(d) (3)."
- 26 USC 410. (61) AMENDMENTS OF SECTION 410.—
 (A) Subparagraphs (C) and (D) of section 410(a) (5) (relating to breaks in service) are each amended by striking out "purposes of subsection (a) (1)" and inserting in lieu thereof "purposes of paragraph (1)".
 (B) Paragraph (1) (C) of section 410(c) (relating to application of minimum participation standards) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".
- 29 USC 1001 note. (C) Paragraph (2) of section 410(c) is amended by striking out "the day before the date of the enactment of this section" and inserting in lieu thereof "September 1, 1974".
- 26 USC 411. (62) AMENDMENTS OF SECTION 411.—
 (A) Subsection (a) of section 411 (relating to minimum vesting standards) is amended by striking out "subsection (a) (8)" and inserting in lieu thereof "paragraph (8)".
 (B) Subsection (a) (3) (D) (iii) of section 411 is amended—
 (i) by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and "the date of the enactment of such Act" and inserting in lieu thereof in both such places "September 2, 1974", and
 (ii) by striking out "the date of the enactment of the Act" and inserting in lieu thereof "September 2, 1974".
 (C) The heading for subparagraph (C) of section 411 (a) (7) is amended to read as follows:
 "(C) REPAYMENT OF SUBPARAGRAPH (B) DISTRIBUTIONS.—"
 (D) Subsection (b) (1) (D) (i) and (e) (1) (C) of section 411 are each amended by striking out "the date of the

enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974". 29 USC 1001 note.

(E) Subsection (e) (2) of section 411 is amended by striking out "the date before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974". 26 USC 411.

(63) AMENDMENTS OF SECTION 412.—

(A) Subsection (h) of section 412 (relating to minimum funding standards) is amended by striking out "the day before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974". 26 USC 412.

(B) Subsection (h) (5) of section 412 is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(64) AMENDMENTS OF SECTION 414.—

(A) The heading for section 414(f) (relating to multi-employer plans) is amended to read as follows: 26 USC 414.

"(f) MULTIEmployer PLAN.—"

(B) Section 414(1) (relating to mergers and consolidations of plans or transfers of plan assets) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(65) AMENDMENTS OF SECTION 415.—

(A) Section 415(b) (2) (A) (relating to adjustments for certain forms of benefits) is amended by striking out "and 409(b) (3) (C)" and inserting in lieu thereof "and 409(b) (3) (C))". 26 USC 415.

(B) Section 415(b) (2) (B) is amended by striking out "(as defined in section 401(a) (11) (II) (iii))" and inserting in lieu thereof "(as defined in section 401(a) (11) (G) (iii))".

(66) AMENDMENTS OF SECTION 453.—

(A) Section 453(c) (3) (relating to adjustment in tax for amounts previously taxed) is amended by striking out "corresponding provisions of the Internal Revenue Code of 1939" and inserting in lieu thereof "corresponding provisions of the Internal Revenue Code of 1954". 26 USC 453.

(B) Section 453(d) (4) (B) (relating to liquidations to which section 337 applies) is amended by striking out "or section 617(d) (1)" and inserting in lieu thereof "617(d) (1)".

(67) AMENDMENT OF SECTION 455.—Section 455(c) (3) (B) (relating to prepaid subscription income) is amended by striking out "for his first taxable year (i) which begins after December 31, 1957, and (ii) in which he receives prepaid subscription income in the trade or business" and inserting in lieu thereof "for his first taxable year in which he receives prepaid subscription income in the trade or business". 26 USC 455.

(68) AMENDMENT OF SECTION 456.—Section 456(c) (3) (B) (relating to election without consent with respect to treatment of prepaid dues) is amended by striking out "for its first taxable year (i) which begins after December 31, 1960, and (ii)" and inserting in lieu thereof "for its first taxable year". 26 USC 456.

(69) AMENDMENTS OF SECTION 461.—

26 USC 461.

(A) Section 461(c) (relating to accrual of real property taxes) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 461(c)(2) (relating to elections without consent), as redesignated by subparagraph (A), is amended by striking out "his first taxable year which begins after December 31, 1953, and ends after the date of enactment of this title in which the taxpayer" and inserting in lieu thereof "his first taxable year in which he".

26 USC 481.

(70) AMENDMENTS OF SECTION 481.—

(A) Section 481(b) (relating to limitation on tax where substantial adjustments are required by a change in accounting method) is amended by striking out paragraphs (4), (5), and (6) (relating to pre-1954 adjustments).

(B) Section 481(b) (1) and (2) are each amended by striking out "other than the amount of such adjustments to which paragraph (4) or (5) applies," each place it appears.

26 USC 508.

(71) AMENDMENTS OF SECTION 508.—

(A) Subsections (a) and (b) of section 508 (relating to special rules relating to 501(c)(3) organizations) are each amended by striking out the last sentence therein.

(B) Section 508(e)(2) (relating to special rules for existing private foundations) is amended by striking out subparagraph (A) (relating to taxable years beginning before 1972), by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and by striking out "(B)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "(A)".

(C) Section 508(d)(2)(A) (relating to disallowance of deductions for certain charitable gifts or bequests) is amended by striking out "(e)(2) (B) and (C)" and inserting in lieu thereof "(e)(2)".

26 USC 514.

(72) AMENDMENTS OF SECTION 514.—

(A) Section 514(c)(1) (relating to definition of acquisition indebtedness) is amended by striking out the comma at the end of subparagraph (C) and all that follows, and inserting in lieu thereof a period.

(B) Section 514 (relating to unrelated debt-financed income) is amended by striking out subsection (f) (relating to definition of business lease), by striking out subsection (g) (relating to definition of business lease indebtedness), and by redesignating subsection (h) as subsection (f).

(C) Section 514(b)(3)(C)(iii) (relating to definition of debt-financed property) is amended to read as follows:

"(iii) shall not apply to property subject to a lease which is a business lease (as defined in this section immediately before the enactment of the Tax Reform Act of 1976)."

(D) Section 514(f) (relating to personal property leased with real property), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "and the term 'premises' include" and inserting in lieu thereof "includes".

(73) AMENDMENTS OF SECTION 534.—

26 USC 534.

(A) Section 534(b) (relating to mailing notices of deficiency) is amended by striking out the last sentence.

(B) Subsection (e) of section 534 (relating to effective date of section) is repealed.

(74) AMENDMENT OF SECTION 535.—Section 535(b)(1) (relating to adjustments in computing accumulated taxable income) is amended by striking out “(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)”.

26 USC 535.

(75) AMENDMENTS OF SECTION 537.—

(A) Section 537(b)(2) (relating to definition of excess business holdings redemption needs) is amended by striking out “, with respect to taxable years of the corporation ending after May 26, 1969,”.

26 USC 537.

(B) Section 537(b)(4) (relating to inferences as to prior years) is amended by striking out “or (2)”.

(76) AMENDMENTS OF SECTION 542.—

(A) Section 542(a)(2) (relating to definition of personal holding company) is amended by striking out the last sentence.

26 USC 542.

(B) Section 542(b)(2) (relating to ineligible affiliated group) is amended by striking out “, other than an affiliated group of railroad corporations the common parent of which would be eligible to file a consolidated return under section 141 of the Internal Revenue Code of 1939 prior to its amendment by the Revenue Act of 1942,”.

(C) Section 542(c)(2) (relating to financial institutions) is amended by striking out “without regard to subparagraphs (D) and (E) thereof”.

(D) Section 542(c)(8) (relating to small business investment companies) is amended by inserting after “Small Business Investment Act of 1958” the following: “(15 U.S.C. 661 and following)”.

(77) AMENDMENTS OF SECTION 545.—

(A) Section 545(b)(1) (relating to deduction of taxes in computing undistributed personal holding company income) is amended—

26 USC 545.

(i) in the first sentence, by striking out “(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)”;

(ii) by striking out the last two sentences (relating to deduction of taxes).

(B) Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (7) (relating to payment of indebtedness incurred before 1934).

(C) Section 545(c)(2)(A) (relating to corporations to which special adjustment applies) is amended by striking out “the date of enactment of this subsection” and inserting in lieu thereof “February 26, 1964”.

(78) AMENDMENT OF SECTION 547.—Section 547 (relating to the deduction of deficiency dividends) is amended by striking out subsection (h) (relating to the effective date).

26 USC 547.

(79) AMENDMENT OF SECTION 551.—Section 551(c) (relating to foreign personal holding company income tax returns), as redesignated by subsection (b)(1)(F) of this section, is amended by striking out “taxable income, foreign personal holding com-

26 USC 551.

pany,” and inserting in lieu thereof “taxable income, foreign personal holding company income.”

26 USC 556.

(80) AMENDMENT OF SECTION 556.—The first sentence of section 556(b)(1) (relating to deduction of taxes in computing undistributed foreign personal holding company income) is amended by striking out “(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 1, 1940)”.

26 USC 564.

(81) AMENDMENT OF SECTION 564.—Section 564 (relating to dividend carryovers) is amended by striking out subsection (c) (relating to carryovers from pre-1954 years).

26 USC 583.

(82) REPEAL OF SECTION 583.—Section 583 (relating to deduction of dividends paid on certain preferred stock by banks or trust companies) is repealed.

26 USC 592.

(83) REPEAL OF SECTION 592.—Section 592 (relating to the deduction by mutual savings banks for repayment of certain loans) is repealed.

26 USC 593.

(84) AMENDMENTS OF SECTION 593.—

(A) Section 593(b)(2) (relating to additions to bad debt reserves for mutual savings banks, etc.) is amended by striking out, in the table in subparagraph (A), the following:

“1969 -----	60 percent.
1970 -----	57 percent.
1971 -----	54 percent.
1972 -----	51 percent.
1973 -----	49 percent.
1974 -----	47 percent.
1975 -----	45 percent.”

(B) Section 593(c) (relating to reserves for mutual savings banks) is amended by striking out paragraphs (2), (3), (4), and (5), by redesignating paragraph (6) as paragraph (3), and by inserting immediately after paragraph (1) the following:

“(2) CERTAIN PRE-1963 RESERVES.—Notwithstanding the second sentence of paragraph (1), any amount allocated pursuant to paragraph (5) (as in effect immediately before the enactment of the Tax Reform Act of 1976) during a taxable year beginning before January 1, 1977, to the reserve for losses on qualifying real property loans out of the surplus, undivided profits, and bad debt reserves (determined as of December 31, 1962) attributable to the period before the first taxable year beginning after December 31, 1951, shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in subsection (b)(1)(B), and for such purpose such amount shall be treated as remaining in such reserve.”

(C) Section 593 is amended by striking out subsection (d) (relating to taxable years beginning in 1962 and ending in 1963), and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(D) Section 593(b)(2)(E)(i) is amended by striking out “subsection (f)” and inserting in lieu thereof “subsection (e)”.

26 USC 601.

(85) REPEAL OF SECTION 601.—Subchapter H of chapter 1 relating to banking institutions) is amended by striking out part III (relating to special deduction for bank affiliates).

(86) AMENDMENTS OF SECTION 613A.—

(A) Section 613A(b)(1)(C) (relating to exemption for certain domestic gas wells) is amended by striking out “within the meaning of section 613(b)(1)(A)”. 26 USC 613A.

(B) Section 613A(c)(6)(i) (relating to limitations on percentage depletion in case of oil and gas wells) is amended by striking out “determined with” and inserting in lieu thereof “determined without”.

(87) AMENDMENTS OF SECTION 614.—

(A) (i) Section 614(c) (relating to aggregation of mineral interests in mines) is amended by striking out paragraph (4) (relating to special rule as to exploration deductions prior to aggregation). 26 USC 614.

(ii) The amendment made by clause (i) shall apply with respect to elections to form aggregations of operating mineral interests made under section 614(c)(1) of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1976. 26 USC 614 note.

(B) The third sentence of section 614(c)(2) (relating to election to treat a single interest as more than one property) is amended to read as follows: “A separate property so formed may, under regulations prescribed by the Secretary, be included as a part of an aggregation in accordance with paragraphs (1) and (3).”

(C) Section 614(c)(3) (relating to manner and scope of election) is amended to read as follows:

“(3) MANNER AND SCOPE OF ELECTION.—The elections provided by paragraphs (1) and (2) shall be made, in accordance with regulations prescribed by the Secretary, not later than the time prescribed for filing the return (including extensions thereof) for the first taxable year—

“(A) in which, in the case of an election under paragraph (1), any expenditure for development or operation in respect of the separate operating mineral interest is made by the taxpayer after the acquisition of such interest, or

“(B) in which, in the case of an election under paragraph (2), expenditures for development or operation of more than one mine in respect of a property are made by the taxpayer after the acquisition of the property.

An election made under paragraph (1) or (2) for a taxable year shall be binding upon the taxpayer for such year and all subsequent taxable years, except that the Secretary may consent to a different treatment of any interest with respect to which an election has been made.”

(88) REPEAL OF SECTION 615.—Section 615 (relating to deduction of pre-1970 exploration expenses) is repealed. 26 USC 615.

(89) AMENDMENT OF SECTION 617.—Section 617(a)(2)(B) (relating to time and scope of election to deduct certain mining exploration expenditures) is amended by striking out “may not be revoked after the last day of the third month following the month in which the final regulations issued under the authority of this subsection are published in the Federal Register, unless” and inserting in lieu thereof “may not be revoked unless”. 26 USC 617.

(90) REPEAL OF SECTION 632.—Section 632 (relating to tax in case of sale of oil and gas properties) is repealed. 26 USC 632.

(91) AMENDMENT OF SECTION 691.—Section 691(c)(1)(B) (relating to deduction for estate tax) is amended by striking out the last sentence. 26 USC 691.

(92) AMENDMENT OF SECTION 692.—The heading of section 692 (relating to income taxes of members of Armed Forces who die in a combat zone) is amended by striking out “ON” the first time it appears in the section heading and inserting in lieu thereof “OF”.

26 USC 751.

(93) AMENDMENT OF SECTION 751.—Section 751(c) (relating to unrealized receivables) is amended by striking out “1254(a), or 1250(a),” and inserting in lieu thereof “1245(a), 1250(a),”.

26 USC 771.

(94) REPEAL OF SECTION 771.—Part IV of subchapter K of chapter 1 (relating to effective date of subchapter K) is repealed.

26 USC 802.

(95) AMENDMENTS OF SECTION 802.—

(A) Section 802(a)(1) (relating to tax imposed on life insurance companies) is amended by striking out “beginning after December 31, 1957,”.

(B) Section 802(a)(2) (relating to alternative tax in case of capital gains) is amended by striking out “beginning after December 31, 1961,”.

(C) Section 802(a) is amended by striking out paragraph (3) (relating to special rules for 1959 and 1960).

26 USC 804.

(96) AMENDMENTS OF SECTION 804.—

(A) Section 804(a) is amended by striking out paragraph (6) (relating to certain exceptions).

(B) Section 804(b)(2) (relating to short-term capital gains) is amended by striking out “In the case of a taxable year beginning after December 31, 1958, the” and inserting in lieu thereof “The”.

26 USC 805.

(97) AMENDMENTS OF SECTION 805.—

(A) Section 805(b)(3)(B) (relating to average earnings rate) is amended to read as follows:

“(B) SPECIAL RULE.—For purposes of subparagraph (A), the current earnings rate for any taxable year of any company which, for such year, is an insurance company (but not a life insurance company) shall be determined as if this part applied to such company for such year.”

(B) Section 805(b)(4)(B) (relating to basis of assets) is amended by striking out “(determined without regard to fair market value on December 31, 1958)”.

(C) Section 805(d) (relating to pension plan reserves) is amended to read as follows:

“(d) PENSION PLAN RESERVES.—For purposes of this part, the term ‘pension plan reserves’ means that portion of the life insurance reserves which is allocable to contracts—

“(1) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be (A) trusts described in section 401(a) and exempt from tax under section 501(a), or (B) trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws;

“(2) purchased under contracts entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of paragraphs (3), (4), (5), and (6) of section 165(a) of the Internal Revenue Code of 1939;

“(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of paragraphs (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), and (20) of section 401(a);

“Pension plan reserves.”

“(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws, or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing; or

“(5) purchased under contracts entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b).”

(98) AMENDMENTS OF SECTION 809.—

(A) Section 809(b) (relating to definition of gain and loss from operations) is amended by striking out paragraph (4). 26 USC 809.

(B) (i) Section 809(d) (relating to life insurance company deductions) is amended by striking out paragraph (11) relating to mutualization distributions before 1963), and by redesignating paragraph (12) as paragraph (11).

(ii) Section 809(e) is amended by striking out “subsection (d)(12)” and inserting in lieu thereof “subsection (d)(11)”.

(C) Section 809 (relating to computation of gain and loss from operations) is amended by striking out subsection (g) (relating to deduction for certain mutualization distributions before 1963).

(99) AMENDMENT OF SECTION 812.—Section 812(b)(1) (relating to years to which operating losses of an insurance company may be carried), other than the last sentence thereof, as added by section 806(d)(1)(A) of this Act, is amended to read as follows: 26 USC 812.

“(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the ‘loss year’) shall be—

“(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

“(B) an operations loss carryover to each of the 5 taxable years following the loss year, and

“(C) subject to subsection (e), if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 5 taxable years described in subparagraph (B).”

(100) AMENDMENTS OF SECTION 817.—Section 817 (relating to rules applicable to certain gains and losses) is amended by striking out subsection (c) (relating to treatment of pre-1959 capital losses) and subsection (e) (relating to certain 1958 reinsurance transactions). 26 USC 817.

(101) AMENDMENT OF SECTION 818.—Section 818 (relating to life insurance accounting provisions) is amended by striking out subsection (e) (relating to certain rules applicable to taxable years 1957, 1958, and 1959), and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively. 26 USC 818.

(102) AMENDMENTS OF SECTION 819.—

(A) The first sentence of section 819(a)(2)(A) (relating to definition of minimum figure for foreign life insurance companies) is amended to read as follows: “The minimum figure is the amount determined by multiplying the tax- 26 USC 819.

payer's total insurance liabilities on United States business by a percentage for the taxable year to be determined and proclaimed by the Secretary."

26 USC 819.

(B) The second sentence of section 819(a)(2)(A) is amended by striking out "under clause (ii)" and inserting in lieu thereof "under the preceding sentence".

(C) Clause (i) of section 819(b)(2)(B) (relating to distributions pursuant to certain mutualizations) is amended to read as follows:

"(i) the minimum figure for 1958 determined under subsection (a)(2)(A) computed by using a percentage of 9 percent in lieu of the percentage determined and proclaimed by the Secretary, or".

(103) AMENDMENTS OF SECTION 820.—

26 USC 820.

(A) Section 820(c) (relating to optional treatment of certain reinsured policies) is amended by striking out paragraph (6) (relating to reimbursement for 1957 income taxes), and by redesignating paragraph (7) as paragraph (6).

(B) The last sentence of section 820(c) is amended by striking out "(5), and (6) and the rules prescribed under paragraph (7)" and inserting in lieu thereof "and (5) and the rules prescribed under paragraph (6)".

(104) AMENDMENTS OF SECTION 821.—

26 USC 821.

(A) Section 821(a) (relating to imposition of tax on certain mutual insurance companies) is amended by striking out "beginning after December 31, 1963,".

(B) Section 821(c)(1) (relating to alternative tax for certain small insurance companies) is amended by striking out "In the case of taxable years beginning after December 31, 1963, there is" and inserting in lieu thereof "There is".

(C) Section 821 (relating to tax on certain mutual insurance companies) is amended by striking out subsection (e) (relating to 1962 transitional rules) and by redesignating subsection (f) as subsection (e).

(105) AMENDMENTS OF SECTION 822.—

26 USC 822.

(A) Section 822(c)(5) (relating to deduction of interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(B) The last sentence of section 822(d)(2) (relating to amortization of premium and accrual of discount) is amended by striking out "For taxable years beginning after December 31, 1962, no accrual" and inserting in lieu thereof "No accrual".

26 USC 825.

(106) AMENDMENTS OF SECTION 825.—Section 825(g) (relating to unused loss deduction of certain insurance companies) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

26 USC 831.

(107) AMENDMENT OF SECTION 831.—Section 831(a) (relating to tax on certain insurance companies) is amended by striking out "or the taxable income" and inserting in lieu thereof "on the taxable income."

26 USC 832.

(108) AMENDMENTS OF SECTION 832.—Paragraphs (1) and (6) of section 832(b) (definitions relating to insurance company taxable income) are each amended by striking out "Convention" and inserting in lieu thereof "Association".

(109) AMENDMENTS OF SECTION 851.—

(A) Section 851(a)(1) (relating to definition of regulated investment company) is amended by striking out “54 Stat. 789;”.

26 USC 851.

(B) Section 851(b)(1) (relating to regulated investment companies) is amended by striking out “which began after December 31, 1941”.

(110) AMENDMENTS OF SECTION 852.—

(A) Subparagraph (C) of section 852(b)(3) (relating to method of taxation of regulated investment companies and their shareholders) is amended by striking out the third sentence.

26 USC 852.

(B)(i) Section 852(b)(3)(D)(iii) is amended by striking out “by 75 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(A) and by 70 percent (72 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(B) or (2)” and inserting in lieu thereof “by 70 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)”.

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(ii) The amendment made by clause (i) shall not be considered to affect the amount of any increase in the basis of stock under the provisions of section 852(b)(3)(D)(iii) of the Internal Revenue Code of 1954 which is based upon amounts subject to tax under section 1201 of such Code in taxable years beginning before January 1, 1975.

26 USC 852
note.

(C) Section 852(d) is amended by inserting after “Investment Company Act of 1940” the following: “(15 U.S.C. 80a-1 and following)”.

(111) AMENDMENTS OF SECTION 856.—

(A) Section 856(c)(1) (relating to real estate investment trusts) is amended by striking out “which began after December 31, 1960”.

26 USC 856.

(B) Section 856(c)(6)(D) (relating to definition of other terms) is amended by inserting after “Investment Company Act of 1940, as amended” the following: “(15 U.S.C. 80a-1 and following)”.

(112) AMENDMENT OF SECTION 857.—Section 857(b)(3)(C) (relating to the taxation of capital gains in the case of real estate investment trusts) is amended by striking out the last sentence.

26 USC 857.

(113) AMENDMENTS OF SECTION 864.—

(A) Subsection (a) of section 864 (definitions relating to determinations of sources of income) is amended to read as follows:

26 USC 864.

“(a) PRODUCED.—For purposes of this part, the term ‘produced’ includes created, fabricated, manufactured, extracted, processed, cured, or aged.”

“Produced.”

(B) Clauses (i) and (iii) of section 864(c)(4)(B) and subparagraph (C) of section 864(c)(5) (relating to effectively connected income) are each amended by striking out “sale” each place it appears and inserting in lieu thereof “sale or exchange”.

(C) Section 864(c)(4)(B)(iii) (relating to effectively connected income) is amended by striking out “sold” and inserting in lieu thereof “sold or exchanged”.

- 26 USC 905. (114) AMENDMENT OF SECTION 905.—Section 905(b) (relating to proof of foreign tax credits) is amended by striking out the last sentence (relating to the treatment of certain royalty payments).
- 26 USC 911. (115) AMENDMENT OF SECTION 911.—Section 911(c) (relating to earned income from sources without the United States) is amended by striking out paragraph (7) (relating to taxable years ending in 1963, 1964, or 1965).
- 26 USC 921. (116) AMENDMENT OF SECTION 921.—Section 921 (relating to definition of Western Hemisphere Trade Corporation) is amended by striking out the last sentence (relating to taxable years before 1954).
- 26 USC 931. (117) AMENDMENTS OF SECTION 931.—Section 931 (relating to income from sources within possession) is amended by striking out subsection (h) (relating to certain persons taken as prisoners of war while working in a possession), and by redesignating subsection (i) as subsection (h).
- 26 USC 934. (118) AMENDMENT OF SECTION 934.—Section 934(b) (relating to gross income received by a corporation from the Virgin Islands) is amended by striking out the last sentence.
- 26 USC 951. (119) AMENDMENT OF SECTION 951.—Section 951(a) (1) (relating to treatment of subpart F income) is amended by striking out “beginning after December 31, 1962”.
- 26 USC 972. (120) REPEAL OF SECTION 972.—Section 972 (relating to consolidation of export trade corporations) is repealed.
- 26 USC 1001. (121) AMENDMENT OF SECTION 1001.—Section 1001(c) (relating to recognition of gain or loss) is amended to read as follows:
“(c) RECOGNITION OF GAIN OR LOSS.—Except as otherwise provided in this subtitle, the entire amount of the gain or loss, determined under this section, on the sale or exchange of property shall be recognized.”
- 26 USC 1015. (122) AMENDMENTS OF SECTION 1015.—
(A) Subparagraph (A) of section 1015(d) (1) (relating to increased basis for gift tax paid) is amended by striking out “the date of the enactment of the Technical Amendments Act of 1958” and inserting in lieu thereof “September 2, 1958”.
(B) Subparagraph (B) of section 1015(d) (1) is amended by striking out “the date of the enactment of the Technical Amendments Act of 1958” and inserting in lieu thereof “September 2, 1958”.
- 26 USC 1016. (123) AMENDMENT OF SECTION 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out paragraph (19).
- 26 USC 1018. (124) AMENDMENT OF SECTION 1018.—Section 1018 (relating to adjustment of capital structure before September 22, 1938) is amended by striking out “54 Stat. 709;”.
- 26 USC 1020. (125) REPEAL OF SECTION 1020.—Section 1020 (relating to election in respect of depreciation allowed before 1952) is repealed.
- 26 USC 1022. (126) REPEAL OF SECTION 1022.—
(A) Section 1022 (relating to the basis of certain foreign personal holding company stock) is repealed.
(B) The repeal made by subparagraph (A) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act.
- 26 USC 1022 note. (127) AMENDMENT OF SECTION 1024.—Section 1024 (containing cross references) is amended by striking out paragraph (4).
- 26 USC 1024.

(128) AMENDMENTS OF SECTION 1033.—

(A) Section 1033(a) (relating to involuntary conversions) 26 USC 1033. is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 1033(a)(2) (relating to conversion into money), as redesignated by subparagraph (A) of this paragraph and as amended by this Act, is amended—

(i) by striking out “WHERE DISPOSITION OCCURRED AFTER 1950” in the paragraph heading;

(ii) by striking out “(g)” each place it appears and inserting in lieu thereof “(h)”;

(iii) by striking out “and the disposition of the converted property (as defined in paragraph (2)) occurred after December 31, 1950,” in the text; and

(iv) by adding at the end thereof the following new subparagraph:

“(E) DEFINITIONS.—For purposes of this paragraph—

“(i) CONTROL.—The term ‘control’ means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

“(ii) DISPOSITION OF THE CONVERTED PROPERTY.—The term ‘disposition of the converted property’ means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation.”

(C) Section 1033 (relating to involuntary conversions) is amended by striking out subsection (b) (relating to certain conversions occurring before 1954) and by redesignating subsections (c), (d), (e), (f), (g), and (h), as subsections (b), (c), (d), (e), (f), and (g), respectively.

(D) The first sentence of section 1033(b) (relating to basis of a property acquired through involuntary conversions), as redesignated by subparagraph (C) of this paragraph, is amended by striking out “or (2)” and inserting in lieu thereof “or section 112(f)(2) of the Internal Revenue Code of 1939”.

(E) Section 1033(f)(2) (relating to condemnation of real property), as redesignated by subparagraph (C) of this paragraph, is amended to read as follows:

“(2) LIMITATION.—Paragraph (1) shall not apply to the purchase of stock in the acquisition of control of a corporation described in subsection (a)(2)(A).”

(F) Section 1033(g)(4) (relating to condemnation of real property), as amended by section 2140(a) of this Act, is amended by striking out “(a)(3)(B)(i)” and inserting in lieu thereof “(a)(2)(B)(i)”.

(129) AMENDMENTS OF SECTION 1034.—

(A) Section 1034(a) (relating to gain on sale of residence) 26 USC 1034. is amended by striking out “after December 31, 1953”.

(B) Section 1034(b) (defining adjusted sales price) is amended by striking out paragraph (3) (relating to effective date of subsection (b)).

(C) Section 1034(d) (relating to certain limitations) is amended by striking out “or section 112(n) of the Internal Revenue Code of 1939”.

26 USC 1034.

(D) Section 1034(i) (relating to involuntary conversions) is amended to read as follows:

“(ii) SPECIAL RULE FOR CONDEMNATION.—In the case of the seizure, requisition, or condemnation of a residence, or the sale or exchange of a residence under threat or imminence thereof, the provisions of this section, in lieu of section 1033 (relating to involuntary conversions), shall be applicable if the taxpayer so elects. If such election is made, such seizure, requisition, or condemnation shall be treated as the sale of the residence. Such election shall be made at such time and in such manner as the Secretary shall prescribe by regulations.”

26 USC 1037.

(E) Section 1034(j) (relating to statute of limitations) is amended by striking out “after December 31, 1950.”

(130) AMENDMENT OF SECTION 1037.—Section 1037(b) (1) (relating to certain exchanges of United States obligations) is amended by striking out “section 1232(a) (2) (A)” and inserting in lieu thereof “section 1232(a) (2) (B)”.

26 USC 1051.

(131) AMENDMENT OF SECTION 1051.—Section 1051 (relating to property acquired before 1929 during affiliation) is amended by striking out the last two sentences.

26 USC 1081.

(132) AMENDMENTS OF SECTION 1081.—

(A) Subsection (c) of section 1081 (relating to distributions required by the SEC) is amended to read as follows:

“(c) DISTRIBUTION OF STOCK OR SECURITIES ONLY.—If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property), without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized.”

(B) Section 1081(f) (relating to conditions for application of section) is amended by striking out “Except in the case of a distribution described in subsection (c) (2), the provisions” and inserting in lieu thereof “The provisions”, and by striking out “49 Stat. 820;”.

(C) Section 1081(g) (relating to applicability of other provisions) is amended by striking out “If a distribution described in subsection (c) (2), or an” and inserting in lieu thereof “If an”, and by striking out the comma after “Commission”.

26 USC 1083.

(133) AMENDMENTS OF SECTION 1083.—

(A) Section 1083(a) is amended by striking out “49 Stat. 820;”.

(B) Section 1083(b) is amended by striking out “49 Stat. 804;”.

(C) Section 1083(e) (4) is amended by striking out “49 Stat. 820;”.

26 USC 1111.

(134) REPEAL OF SECTION 1111.—Part IX of subchapter O of chapter 1 (relating to distributions pursuant to orders enforcing the antitrust laws) is repealed.

26 USC 1201.

(135) AMENDMENTS OF SECTION 1201.—

(A) Section 1201(a) (relating to the alternative tax on capital gain) is amended to read as follows:

“(a) CORPORATIONS.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, 821 (a) or (c) and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

“(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

“(2) a tax of 30 percent of the net capital gain.”

(B) Section 1201(c) (relating to computation of alternative tax) is amended to read as follows: 26 USC 1201.

“(c) COMPUTATION OF TAX WHERE CAPITAL GAIN EXCEEDS \$50,000.—The tax computed for purposes of subsection (b)(3) shall be the amount by which a tax determined under section 1 or 511 on an amount equal to the taxable income (but not less than 50 percent of the net capital gain) for the taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of (A) the amount subject to tax under subsection (b)(1) plus (B) an amount equal to 50 percent of the sum referred to in subsection (b)(2)(A).”

(C)(i) Section 1201 is amended by striking out subsection (d) (defining subsection (d) gain) and by redesignating subsection (e) as subsection (d).

(ii) Section 1201(b)(2)(A) (relating to alternative tax on noncorporate taxpayers) is amended by striking out “the amount of the subsection (d) gain” and inserting in lieu thereof “the sum of the long-term capital gains for the taxable year, but not to exceed \$50,000 (\$25,000 in the case of a married individual filing a separate return)”.

(iii) Section 1201(b)(3) is amended by striking out “the amount of the subsection (d) gain” and inserting in lieu thereof “the sum referred to in subparagraph (A)”.

(136) AMENDMENTS OF SECTION 1222.—

(A) Paragraph (9) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows: 26 USC 1222.

“(9) CAPITAL GAIN NET INCOME.—The term ‘capital gain net income’ means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges.”

(B) Paragraph (11) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows:

“(11) NET CAPITAL GAIN.—The term ‘net capital gain’ means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year.” “Net capital gain.”

(137) AMENDMENT OF SECTION 1233.—Section 1233(c) (relating to certain options to sell) is amended by striking out “the date of enactment of this title” and inserting in lieu thereof “August 16, 1954”. 26 USC 1233.

(138) AMENDMENT OF SECTION 1237.—Section 1237 (relating to real property subdivided for sale) is amended by striking out subsection (d) (relating to effective date). 26 USC 1237.

(139) REPEAL OF SECTION 1240.—Section 1240 (relating to taxability to employee of certain termination payments) is repealed. 26 USC 1240.

(140) AMENDMENT OF SECTION 1245.—Section 1245(b)(7)(B) (relating to transfers to tax-exempt organization where property will be used in unrelated business) is amended by striking out “such organization acquiring such property.” 26 USC 1245.

(141) AMENDMENT OF SECTION 1246.—Section 1246(f) (relating to gain on foreign investment company stock) is amended by striking out “beginning after December 31, 1962”. 26 USC 1246.

- (142) AMENDMENT OF SECTION 1311.—Paragraphs (2) (A), (2) (B), and (3) of section 1311(b) (relating to mitigation of effect of limitations) are each amended by striking out “Tax Court of the United States” and inserting in lieu thereof “Tax Court”.
- 26 USC 1311.
- (143) REPEAL OF SECTION 1315.—Section 1315 (relating to effective date of part II of subchapter Q of chapter 1) is repealed.
- 26 USC 1315.
- (144) REPEAL OF SECTION 1321.—Part III of subchapter Q of chapter 1 (relating to involuntary liquidation of LIFO inventories) is repealed.
- 26 USC 1321.
- (145) REPEAL OF SECTIONS 1331 THROUGH 1337.—
- 26 USC 1331–1337.
- (A) Part IV of subchapter Q of chapter 1 (relating to war loss recoveries) is repealed.
- 26 USC 1331 note.
- (B) The repeal by subparagraph (A) shall apply with respect to war loss recoveries in taxable years beginning after December 31, 1976.
- 26 USC 1341.
- (146) AMENDMENT OF SECTION 1341.—Section 1341(b) (2) (relating to claim of right) is amended by striking out the last sentence.
- 26 USC 1342.
- (147) REPEAL OF SECTION 1342.—Section 1342 (relating to computation of tax on certain amounts recovered as a result of a patent infringement suit) is repealed.
- 26 USC 1346.
- (148) REPEAL OF SECTION 1346.—Section 1346 (relating to recovery of unconstitutional Federal taxes) is repealed.
- 26 USC 1372.
- (149) AMENDMENTS OF SECTION 1372.—
- (A) Section 1372(b) (1) (relating to effect of election under subchapter S) is amended by striking out “(other than the tax imposed by section 1378)” and inserting in lieu thereof “(other than as provided by section 58(d) (2) and by section 1378)”.
- (B) Section 1372(c) (relating to subchapter S elections by small business corporations) is amended to read as follows:
- “(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the Secretary shall prescribe by regulations.”
- (C) Section 1372 is amended by striking out subsection (g) (relating to certain elections for years beginning before 1961).
- 26 USC 1374.
- (150) AMENDMENTS OF SECTION 1374.—
- (A) Section 1374(b) (relating to net operating losses of subchapter S corporations) is amended by adding at the end thereof the following new sentence: “The deduction allowed by this subsection shall, for purposes of this chapter, be considered as a deduction attributable to a trade or business carried on by the shareholder.”
- (B) Subsection (d) of section 1374 (relating to treatment of net operating losses of subchapter S corporations) is repealed.
- 26 USC 1375.
- (151) AMENDMENTS OF SECTION 1375.—
- (A) The heading of subsection (b) of section 1375 is amended by striking out “RECEIVED CREDIT NOT ALLOWED” and inserting in lieu thereof “NOT TREATED AS SUCH FOR CERTAIN PURPOSES”.
- (B) Section 1375(f) (relating to elections as to certain distributions) is amended by striking out paragraph (3).

(152) AMENDMENT OF SECTION 1378.—Section 1378(b) (relating to the taxation of capital gain in the case of electing small business corporations) is amended by striking out the last sentence. 26 USC 1378.

(153) AMENDMENTS OF SECTION 1388.—

(A) Section 1388(c)(2)(B)(i) (relating to patronage dividends) is amended by striking out “the date of the enactment of the Revenue Act of 1962” and inserting in lieu thereof “October 16, 1962”. 26 USC 1388.

(B) Section 1388(h)(2)(B)(i) (relating to per-unit retain certificates) is amended by striking out “the date of the enactment of this subsection” and inserting in lieu thereof “November 13, 1966”.

(154) AMENDMENTS OF SECTION 1401.—

(A) Section 1401(a) (relating to rate of tax on self-employment income) is amended to read as follows: 26 USC 1401.

“(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 7.0 percent of the amount of the self-employment income for such taxable year.”

(B) Section 1401(b) (relating to rate of tax on self-employment income for hospital insurance) is amended by striking out paragraphs (1) and (2) and by redesignating paragraphs (3), (4), (5), and (6), as paragraphs (1), (2), (3) and (4), respectively.

(155) AMENDMENTS OF SECTION 1402.—

(A) Paragraph (1) of section 1402(b) (relating to definition of self-employment income) is amended to read as follows: 26 USC 1402.

“(1) that part of the net earnings from self-employment which is in excess of (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which such taxable year begins, minus (ii) the amount of the wages paid to such individual during such taxable years; or”. 42 USC 430.

(B) Section 1402 amended by striking out subsection (g) (relating to treatment of self-employment income for years prior to 1962), and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively. 26 USC 1402.

(C) Section 1402(g)(2) (relating to self-employment income of members of certain religious faiths), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

“(2) TIME FOR FILING APPLICATIONS.—For purposes of this subsection, an application must be filed on or before the time prescribed for filing the return (including any extension thereof) for the first taxable year for which the individual has self-employment income (determined without regard to this subsection or subsection (c)(6)), except that an application filed after such date but on or before the last day of the third calendar month following the calendar month in which the taxpayer is first notified in writing by the Secretary that a timely application for an exemption from the tax imposed by this chapter has not been filed by him shall be deemed to be filed timely.”

(156) REPEAL OF SECTION 1465.—Section 1465 (relating to definition of withholding agent) is repealed. 26 USC 1465.

(157) AMENDMENTS OF SECTION 1481.—

(A) Section 1481(a)(1)(A) (relating to mitigation of effect of renegotiation of Government contracts) is amended 26 USC 1481.

by striking out “within the meaning of the Federal renegotiation act applicable to such transaction” and inserting in lieu thereof “within the meaning of the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 and following)”.

26 USC 1481.

(B) Section 1481(a)(1) (relating to renegotiation) is amended by striking out subparagraph (D).

(C) Subparagraphs (B) and (C) of section 1481(a)(1) are each amended by striking out “applicable Federal renegotiation act” and inserting in lieu thereof “Renegotiation Act of 1951, as amended”.

26 USC 1551.

(158) AMENDMENT OF SECTION 1551.—Section 1551(a) (relating to disallowance of surtax exemption) is amended by striking out “determined under subsection (d)” and inserting in lieu thereof “determined under subsection (c)”.

26 USC 1552.

(159) AMENDMENT OF SECTION 1552.—The first sentence of section 1552(a) (relating to earnings and profits of an affiliated group) is amended by striking out “beginning after December 31, 1953, and ending after the date of enactment of this title.”.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 35 AND 242.—

26 USC 36.

(A) Section 36, as amended by this Act, is amended by striking out “sections 32 and 35” and inserting in lieu thereof “section 32”.

26 USC 41.

(B) Section 41(b)(2) is amended by striking out “section 35 (relating to partially tax-exempt interest)”.

Ante, p. 1580.

(C) Section 46(a)(3) is amended by striking out subparagraph (B), by inserting “and” at the end of subparagraph (A), and by redesignating subparagraph (C) as subparagraph (B).

26 USC 50A.

(D) Section 50A(a)(3) is amended by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E), as subparagraphs (B), (C), and (D), respectively.

26 USC 171.

(E) (i) The heading of paragraph (1) of section 171(a) is amended to read “(1) TAXABLE BONDS.—”.

(ii) The heading of paragraph (2) of section 171(a) is amended to read “(2) TAX-EXEMPT BONDS.—”.

(iii) Section 171(a) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(iv) Section 171(b)(1)(B)(ii) is amended by striking out “subsection (c)(1)(B)” and inserting in lieu thereof “subsection (a)(1)”.

(v) So much of section 171(c) as precedes paragraph (2) is amended to read as follows:

“(c) ELECTION AS TO TAXABLE BONDS.—

“(1) ELIGIBILITY TO ELECT; BONDS WITH RESPECT TO WHICH ELECTION PERMITTED.—In the case of bonds the interest on which is not excludible from gross income, this section shall apply only if the taxpayer has so elected.”

26 USC 551.

(F) (i) Section 551 is amended by striking out subsection (c), and by redesignating subsections (d), (e), (f), and (g), as subsections (c), (d), (e), and (f), respectively.

26 USC 1016.

(ii) Section 1016(a)(13) is amended by striking out “section 551(f)” and inserting in lieu thereof “section 551(e)”.

26 USC 584.

(G) Section 584(c)(2) is amended to read as follows:

“(2) DIVIDENDS RECEIVED.—The proportionate share of each participant in the amount of dividends received by the common

trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant."

26 USC 642.

(H) (i) Section 642(a) is amended by striking out paragraph (1), and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(ii) Section 41(d) is amended by striking out "section 642(a) (3)" and inserting in lieu thereof "section 642(a) (2)".

(iii) Section 901(g)(3), as amended by this Act, is amended by striking out "section 642(a) (2)" and inserting in lieu thereof "section 642(a) (1)".

(I) (i) Section 702(a) is amended by striking out paragraph (7) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(ii) Section 702(b) is amended by striking out "paragraphs (1) through (8)" and inserting in lieu thereof "paragraphs (1) through (7)".

(iii) Section 1402(a) is amended by striking out "702(a) (9)" each place it appears and inserting in lieu thereof "702(a) (8)".

(J) (i) Section 804(a) is amended by striking out paragraph (3), and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(ii) Section 243(b)(3)(C)(iii), as redesignated by paragraph (21)(A) of this subsection, is amended by striking out "sections 804(a) (4)" and inserting in lieu thereof "sections 804(a) (3)".

(iii) Section 804(a) (2) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)", and by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(iv) Section 809(d) (10) is amended by striking out "section 804(a) (4)", and inserting in lieu thereof "section 804(a) (3)".

(v) Section 1561(a) (3) is amended by striking out "sections 804(a) (4)" and inserting in lieu thereof "sections 804(a) (3)".

(vi) Section 1564(a) (1) (C) is amended by striking out "sections 804(a) (4)" inserting in lieu thereof "sections 804(a) (3)".

(K) Section 804(a) (2) (A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(L) (i) Section 809(d) (8) (A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(ii) Section 809(d) (8) (B) is amended by striking out "subparagraph (A) (iii)" and inserting in lieu thereof "subparagraph (A) (ii)".

(M) Sections 804(a) (1), 804(a) (2), 809(a) (1), 809(b) (1) (A) and 809(b) (2) (A) are each amended by striking out "partially tax-exempt interest."

(N) Section 809(e) is amended by striking out paragraph (6), and by redesignating paragraph (7) as paragraph (6).

(O) Section 815(b) (2) (A) (iii) is amended by striking out "the deduction for partially tax-exempt interest provided

by section 242 (as modified by section 804(a)(3)),” and by striking out the comma after “809(d)(8)(B))”.

26 USC 822.

(P) Section 822(c)(2) is amended by striking out “partially tax-exempt interest and”.

(Q) Section 822(c)(6)(A) is amended by striking out “or to the deduction provided in section 242 for partially tax-exempt interest”.

(R) Section 822(c)(7) is amended by striking out “partially tax-exempt interest and to”.

(S) Section 822(d)(2) is amended by striking out “, the deduction provided in subsection (c)(1), and the deduction allowed by section 242 (relating to partially tax-exempt interest)” and inserting in lieu thereof “and the deduction provided in subsection (c)(1)”.

(T) Section 832(c)(5)(A) is amended by striking out “or to the deductions provided in section 242 for partially tax-exempt interest”.

(U) Section 832(c)(12) is amended by striking out “partially tax-exempt interest and to”.

(V) Sections 852(b)(1) and 857(b)(1) are each amended by striking out the last sentence.

(W) Section 1244(c)(1)(E) is amended by striking out “sections 172, 242, 243” and inserting in lieu thereof “sections 172, 243”.

(X) Section 1402(a)(2) is amended by striking out “(other than interest described in section 35)”.

(Y) Section 1503(b)(3) is amended by striking out subparagraph (C).

(Z) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 35.

(AA) The table of sections for part VIII of subchapter B of chapter 1 is amended by striking out the item relating to section 242.

(2) AMENDMENT CONFORMING TO REPEAL OF SECTION 51.—The table of parts for subchapter A of chapter 1 is amended by striking out the item relating to part V.

(3) AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

(A) Paragraphs (1)(C), (5)(A), (6)(D), and (12) of section 341(e) are each amended by striking out “gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b)” each place it appears and inserting in lieu thereof “ordinary income”.

(B) Section 483(f)(3) is amended by striking out “no part of any gain on such” and inserting in lieu thereof “all of the gain, if any, on such” and by striking out “gain from the sale or exchange of a capital asset or property described in section 1231” and inserting in lieu thereof “ordinary income”.

(C) Section 707(b)(2) is amended by striking out “as gain from the sale or exchange of property other than a capital asset” and inserting in lieu thereof “as ordinary income”.

(D) Paragraphs (1) and (2) of section 735(a) are each amended by striking out “gain or loss from the sale or exchange of property other than a capital asset” and inserting in lieu thereof “as ordinary income or as ordinary loss, as the case may be”.

26 USC 341.

(E) Section 1236(b) is amended by striking out “loss from the sale or exchange of property which is not a capital asset” and inserting in lieu thereof “ordinary loss”. 26 USC 1236.

(F) Sections 1242 and 1243 are each amended by striking out “a loss from the sale or exchange of property which is not a capital asset” each place it appears and inserting in lieu thereof “an ordinary loss”.

(G) Section 1244 is amended by striking out “a loss from the sale or exchange of an asset which is not a capital asset” each place it appears and inserting in lieu thereof “an ordinary loss”.

(H) Section 1248(g)(3)(B), as redesignated by this Act, is amended by striking out “gain from the sale of an asset which is not a capital asset” and inserting “ordinary income”.

(I) The following provisions are each amended by striking out “gain from the sale or exchange of property which is not a capital asset” each place it appears and inserting in lieu thereof “ordinary income”: sections 341(a), 871(a)(1)(C)(i) and (ii), 881(a)(3)(A) and (B), 996(d)(1) and (2), 1037(b)(1)(A), 1232(a)(2)(A) and (B), 1232(c), 1246(a), and 1385(c)(2)(C).

(J) The following provisions are each amended by striking out “gain from the sale of property which is not a capital asset” and inserting in lieu thereof “ordinary income”: sections 306(a)(1)(A), 306(a)(1)(B), and 306(f).

(K) The following provisions are each amended by striking out “gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231” each place it appears and inserting in lieu thereof “ordinary income”: sections 80(c)(1), 163(d)(3) and (5), 613(a), 617(d)(1), 995(b)(1)(C), 1238, 1245(a)(1), 1249(a), 1250(f) and (g), 1251(b)(3)(B), (c)(1), and (c)(2), and 1252(a)(1).

(4) CLERICAL AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

(A) The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new items:

“Sec. 64. Ordinary income defined.

“Sec. 65. Ordinary loss defined.”

(B) The heading for part I of subchapter B of chapter 1 is amended by striking out **“AND TAXABLE INCOME”** and inserting in lieu thereof **“TAXABLE INCOME, ETC.”**

(C) The table of parts for subchapter B of chapter 1 is amended by striking out “and taxable income.” in the item relating to part I and inserting in lieu thereof “taxable income, etc.”

(5) AMENDMENT CONFORMING TO REPEAL OF SECTION 76.—The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 76.

(6) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 103.—

(A) Section 6049(b)(2)(A) is amended by striking out “section 103(a)(1) or (3)” and inserting in lieu thereof “section 103(a)”. 26 USC 6049.

Post, p. 1930.

(B) Section 852(a)(1)(B), as added by this Act, is amended by striking out "section 103(a)(1)" and inserting in lieu thereof "section 103(a)".

(7) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 143.—

26 USC 153,
154.

(A)(i) Part V of subchapter B of chapter 1 is amended by striking out section 153 (relating to determination of marital status) and by redesignating section 154 as section 153.

(ii) The table of sections for part V of subchapter B of chapter 1 is amended by striking out the items relating to sections 153 and 154 and inserting in lieu thereof the following:

"Sec. 153. Cross references."

26 USC 152.

(B) Section 152(a)(9) is amended by striking out "section 153" and inserting in lieu thereof "section 143".

26 USC 153.

(C) Section 153, as redesignated by subparagraph (A) of this paragraph, is amended by adding at the end thereof the following new paragraph:

"(5) For determination of marital status, see section 143."

(8) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 151.—

26 USC 117,
152, 170, 403.

(A) The following provisions are each amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)": sections 117(a)(1)(A), 117(b)(1), 117(b)(2), 152(d), 170(g)(1)(B) (as redesignated by subsection (a)(28)(A)(i) of this section), and 403(b)(1)(A)(ii).

26 USC 103.

(B) Section 103(c)(3)(A), as redesignated by subsection (a)(17) of this section, is amended by striking out "educational institution (within the meaning of section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

26 USC 163.

(C) Section 163(b)(1) is amended by striking out "educational institution (as defined in section 151(e)(4)) and which is provided for a student of such institution" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii) and which is provided for a student of such organization".

26 USC 415.

(D)(i) Subparagraphs (A), (B), and (C) of section 415(c)(4) are each amended by striking out "educational institution" each place it appears and inserting in lieu thereof "educational organization".

(ii) Subparagraph (D)(ii) of section 415(c)(4) is amended to read as follows:

"(ii) For purposes of this paragraph the term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii)."

26 USC 508.

(iii) Section 415(c)(4) is amended by striking out "EDUCATIONAL INSTITUTIONS" from the paragraph heading and inserting in lieu thereof "EDUCATIONAL ORGANIZATIONS".

26 USC 512.

(E) Section 508(c)(2)(A) is amended to read as follows: "(A) educational organizations described in section 170(b)(1)(A)(ii), and".

(F) Section 512(b)(15)(B), as redesignated by section 1951(b)(8)(A) of this Act, is amended by striking out "edu-

cational institution (as defined in section 151(e)(4))” and inserting in lieu thereof “educational organization described in section 170(b)(1)(A)(ii)”.

(G) Section 1303(d) is amended by striking out “educational institution (as defined in section 151(e)(4))” each place it appears and inserting in lieu thereof “educational organization described in section 170(b)(1)(A)(ii)”. 26 USC 1303.

(H) Sections 4941(d)(2)(G)(ii) and 4945(g)(1) each are amended by striking out “educational institution described in section 151(e)(4)” and inserting in lieu thereof “educational organization described in section 170(b)(1)(A)(ii)”. 26 USC 4941, 4945.

(9) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 152.—Section 2(b)(3)(B) is amended by striking out clause (ii), by adding “or” at the end of clause (i), and by redesignating clause (iii) as clause (ii). 26 USC 2.

(10) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 172.—

(A) Section 374(e)(2) is amended by striking out “section 172(j)” and inserting in lieu thereof “172(g)”. *Ante*, p. 296.

(B) Section 904(f)(2)(B)(i) and 904(f)(4)(B)(i), as amended by this Act, are each amended by striking out “section 172(k)(1)” and inserting in lieu thereof “section 172(h)”. *Ante*, p. 1624.

(11) AMENDMENTS CONFORMING TO REPEAL OF SECTION 187.—

(A) Section 48(a)(8) (relating to section 38 property) is amended by striking out “187.”. 26 USC 48.

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 187.

(C) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out “187.”. 26 USC 1082.

(D) Section 1245(a)(2) (relating to gain from dispositions of certain depreciable property) is amended by striking out “187,” each place it appears. 26 USC 1245.

(12) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 342.—

(A) Section 551(f), as redesignated by paragraph (1)(F) of this subsection, is amended by striking out paragraph (3). 26 USC 551.

(B) The table of subparts for part II of subchapter C of chapter 1 is amended by striking out the item relating to subpart C and inserting in lieu thereof:

“Subpart C. Collapsible corporations.”

(C) The table of sections for subpart C of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 342.

(D) The heading of subpart C of part II of subchapter C of chapter 1 is amended to read as follows:

“Subpart C—Collapsible Corporations”.

(13) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 363.—The table of sections for subpart C of part III of subchapter C of chapter 1 is amended by striking out the item relating to section 363.

(14) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 373.—

(A) Section 372(b)(1) is amended by striking out “373 26 USC 372.

(b) or”.

26 USC 374.

(B) Section 374(b) is amended to read as follows:

“(b) BASIS.—

“(1) RAILROAD CORPORATIONS.—If the property of a railroad corporation, as defined in section 77(m) of the Bankruptcy Act (11 U.S.C. 205(m)), was acquired after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation—

“(A) in a receivership proceeding, or

“(B) in a proceeding under section 77 of the Bankruptcy Act,

and the acquiring corporation is a railroad corporation (as defined in section 77(m) of the Bankruptcy Act) organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired, increased in the amount of gain recognized under subsection (a) (2) to the transferor on such transfer.

“(2) PROPERTY ACQUIRED BY STREET, SUBURBAN, OR INTERURBAN ELECTRIC RAILWAY CORPORATION.—If the property of any street, suburban, or interurban electric railway corporation engaged as a common carrier in the transportation of persons or property in interstate commerce was acquired after December 31, 1934, in pursuance of an order of the court having jurisdiction of such corporation in a proceeding under section 77 of the Bankruptcy Act (11 U.S.C. 501 and following), and the acquiring corporation is a street, suburban, or interurban electric railway engaged as a common carrier in the transportation of persons or property in interstate commerce, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, then, notwithstanding the provisions of section 270 of the Bankruptcy Act (11 U.S.C. 670), the basis shall be the same as it would be in the hands of the corporation whose property was so acquired.”

Ante, p. 295.

(C) Section 374(c) (3) is amended by striking out “subsection (b)” and inserting in lieu thereof “subsection (b) (1)”.

26 USC 1232.

(D) Section 1232(b) (2) is amended by striking out “section 371, 373, or 374” and inserting in lieu thereof “section 371 or 374”.

(E) The table of sections for part IV of subchapter C of chapter 1 is amended by striking out the item relating to section 373.

(15) AMENDMENT CONFORMING TO REPEAL OF SECTIONS 391 THROUGH 395.—The table of parts for subchapter C of chapter 1 is amended by striking out the item relating to part VII.

26 USC 381.

(16) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 481.—Section 381(c) is amended by striking out paragraph (21).

(17) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 545.—Section 381(c) (15) is amended by striking out “subsections (b) (7) and (c)” and inserting in lieu thereof “subsection (c)”.

26 USC 583.

(18) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 583.—The table of sections for part I of subchapter H of chapter 1 is amended by striking out the item relating to section 583.

26 USC 592.

(19) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 592.—The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 592.

(20) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 601.—

(A) Section 535(b) is amended by striking out paragraph (8). 26 USC 535.

(B) (i) Section 545(b) is amended by striking out paragraph (6), and by redesignating paragraph (8) as paragraph (6). 26 USC 545.

(ii) Section 545(b) (2) is amended by striking out “paragraph (8)” and inserting in lieu thereof “paragraph (6)”.

(iii) Section 545(c) (5) is amended by striking out “subsection (b) (8)” and inserting in lieu thereof “subsection (b) (6)”.

(C) The table of parts for subchapter H of chapter 1 is amended by striking out the item relating to part III.

(21) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 615.—

(A) (i) Section 243(b) (3) (C) is amended— 26 USC 243.

(I) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

“(ii) \$400,000 limitation for certain exploration expenditures under section 617(h) (1),” and

(II) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively.

(ii) Section 1564(b) (2) (C) is amended by striking out “section 243(b) (3) (C) (v)” and inserting in lieu thereof “243(b) (3) (C) (iv)”. 26 USC 1564.

(B) Section 381(c) (10) is amended to read as follows: 26 USC 381.

“(10) TREATMENT OF CERTAIN MINING DEVELOPMENT AND EXPLO-
RATION EXPENSES OF DISTRIBUTOR OR TRANSFEROR CORPORATION.—
The acquiring corporation shall be entitled to deduct, as if it were
the distributor or transferor corporation, expenses deferred under
section 616 (relating to certain development expenditures) if the
distributor or transferor corporation has so elected. For the pur-
pose of applying the limitation provided in section 617(h), if, for
any taxable year, the distributor or transferor corporation was
allowed a deduction under section 617(a), the acquiring corpora-
tion shall be deemed to have been allowed such deduction.”

(C) Section 617(h) (1) is amended by striking out “and section 615(a) and the amounts which are or have been treated as deferred expenses under section 615(b)” and inserting in lieu thereof “and subsection (a) of section 615 (as in effect before the enactment of the Tax Reform Act of 1976)”. 26 USC 617.

(D) Section 617(h) (3) is amended to read as follows:

“(3) APPLICATION OF PARAGRAPH (2) (B).—Paragraph (2) (B) shall apply with respect to all amounts deducted before the latest such transfer from the individual or corporation to the taxpayer. Paragraph (2) (B) shall apply only if—

“(A) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make paragraph (7), (8), (11), (15), (17), (20), or (22) of section 113(a) of the Internal Revenue Code of 1939 apply to such transfer; or

“(B) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make section 334(b), 362 (a) and (b), 372(a), 374(b) (1), 1051, or 1082 apply to such transfer.”

(E) Section 617 is amended by adding at the end thereof the following new subsection:

“(i) CERTAIN PRE-1970 EXPLORATION EXPENDITURES.—If—

“(1) the taxpayer receives mineral property in a transaction as a result of which the basis of such property in the hands of the transferee is determined by reference to the basis in the hands of the transferor,

“(2) an election made by the transferor under subsection (e) of section 615(e) (as in effect before the enactment of the Tax Reform Act of 1976) applied with respect to expenditures which were made by him and which were properly chargeable to such property, and

“(3) the taxpayer has made or makes an election under subsection (a),

then in the application of this section with respect to the transferee, the amounts allowed as deductions under such section 615 to the transferor, which (but for the transferor's election) would be reflected in the adjusted basis of such property in the hands of the transferee, shall be treated as expenditures allowed as deductions under subsection (a) to the transferor.”

26 USC 703.

(F) Section 703(b) is amended by striking out “under section 615 (relating to pre-1970 exploration expenditures),”.

26 USC 1016.

(G) Section 1016(a) is amended by striking out paragraph (10).

(H) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 615.

(22) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 632.—

(A) The table of sections for part III of subchapter I of chapter 1 is amended by striking out the item relating to section 632.

26 USC 5.

(B) Section 5(b) is amended by striking out paragraph (1).

(23) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 771.—

The table of parts for subchapter K of chapter 1 is amended by striking out the item relating to part IV.

26 USC 815.

(24) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 802.—Section 815(c) (3) (B) is amended by striking out “(determined without regard to section 802(a) (3))”.

26 USC 844.

(25) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 812.—Section 844(b) (2) is amended by striking out “section 812(b) (1) (A) (iii)” and inserting in lieu thereof “section 812 (b) (1) (C)”.

(26) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 864.—

26 USC 861.

(A) Paragraphs (5) and (6) of section 861(a) (relating to items treated as income from within United States) are each amended by striking out in the heading “SALE” and inserting in lieu thereof “SALE OR EXCHANGE”, and by striking out “sale” in the text and inserting in lieu thereof “sale or exchange”.

(B) Section 861(e) (1) (relating to income from certain aircraft and vessels) is amended by striking out “sale or other disposition” and inserting in lieu thereof “sale, exchange, or other disposition”.

26 USC 862.

(C) Paragraphs (5) and (6) of section 862(a) (relating to items treated as income from without the United States) and paragraphs (2) and (3) of section 863(b) (relating to sources of income) are each amended by striking out “sale” and inserting in lieu thereof “sale or exchange”.

26 USC 863.

(D) Paragraph (2) of section 863(b) (relating to sources of income) is amended by striking out “sold” each place it appears and inserting in lieu thereof “sold or exchanged”. 26 USC 863.

(27) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 972.—

(A) Section 970(b)(1) (relating to inclusion of certain previously excluded amounts of subpart F income) is amended by striking out “application of section 972” and inserting in lieu thereof “treatment (under section 972 as in effect before the date of the enactment of the Tax Reform Act of 1976) of two or more controlled foreign corporations which are export trade corporations as a single controlled foreign corporation”. 26 USC 970.

(B) The table of sections for subpart G of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 972.

(28) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 1001.—

(A) Subsection (c) of section 331 is amended to read as follows: 26 USC 331.

“(c) CROSS REFERENCE.—

“For general rule for determination of the amount of gain or loss recognized, see section 1001.”

(B) (i) Section 1002 (relating to recognition of gain or loss) is repealed. 26 USC 1002.

(ii) The table of sections for part I of subchapter O of chapter 1 is amended by striking out the item relating to section 1002.

(29) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1020.—

(A) The third sentence of subsection (a) of section 1016 is amended by striking out “under section 1020” and inserting in lieu thereof “under section 1020 (as in effect before the date of the enactment of the Tax Reform Act of 1976)”. 26 USC 1016.

(B) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1020. *Ante*, p. 1520.

(30) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1022.—

(A) Section 1016(a) is amended— 26 USC 1016.

(i) by striking out paragraph (21), and

(ii) by redesignating paragraphs (20) and (22) as paragraphs (19) and (20), respectively.

(B) The amendment made by subparagraph (A) (i) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act. 26 USC 1016 note.

(C) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1022.

(31) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 1033.—

(A) Section 1250(d)(4)(B) is amended by striking out “1033(a)(3)(A)” and inserting in lieu thereof “1033(a)(2)(A)”. 26 USC 1250.

(B) Section 1250(d)(4)(C) and (D) are each amended by striking out “1033(a)(3)” and inserting in lieu thereof “1033(a)(2)”.

26 USC 6212.

(C) Section 6212(c) (2) (B) is amended by striking out “1033(a) (3) (C) and (D)” and inserting in lieu thereof “1033(a) (2) (C) and (D)”.

26 USC 6504.

(D) Section 6504(4) is amended by striking out “1033(a) (3) (C) and (D)” and inserting in lieu thereof “1033(a) (2) (C) and (D)”.

26 USC 1071,
1250.

(E) Sections 1071(b) and 1250(d) (4) (D) are each amended by striking out “1033(c)” and inserting in lieu thereof “1033(b)”.

(32) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1111.—

26 USC 301.

(A) Section 301 is amended by striking out subsection (f), and by redesignating subsection (g) as subsection (e).

26 USC 312.

(B) (i) Section 312 is amended by striking out subsection (k), and by redesignating subsections (l) and (m) as subsections (j) and (k), respectively.

26 USC 1246.

(ii) Section 1246(g) is amended by striking out “312(l)” and inserting in lieu thereof “312(j)”.

26 USC 964,
1248.

(iii) Sections 964(a) and 1248(c) (1) are each amended by striking out “312(m) (3)” and inserting in lieu thereof “312(k) (3)”.

Ante, p. 1608.

(iv) Subsection (d) of section 1377, as added by this Act, is amended by striking out “312(m)” and inserting in lieu thereof “312(k)”.

26 USC 535.

(C) Section 535(b) is amended by striking out paragraphs (9) and (10).

26 USC 543.

(D) Section 543(a) (1) is amended by inserting “and” at the end of subparagraph (A), and by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

“(B) interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1161 or 1177).”

26 USC 545.

(E) Section 545(b) is amended by striking out paragraphs (10) and (11).

26 USC 553.

(F) Section 553(a) (1) is amended to read as follows:

“(1) DIVIDENDS, ETC.—Dividends, interest, royalties, and annuities.”

26 USC 556.

(G) Section 556(b) is amended by striking out paragraphs (7) and (8).

26 USC 561.

(H) Section 561(b) is amended to read as follows:

“(b) SPECIAL RULES APPLICABLE.—In determining the deduction for dividends paid, the rules provided in section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) and section 563 (relating to dividends paid after the close of the taxable year) shall be applicable.”

(I) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part IX.

(33) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 1122.—

26 USC 57.

(A) Section 57(a) (9) (A) is amended by striking out “the amount by which the net long-term capital gain exceeds the net short-term capital loss” and inserting in lieu thereof “the net capital gain”.

(B) So much of the first sentence of section 57(a) (9) (B) as precedes “by a fraction” is amended to read as follows: “In the case of a corporation having a net capital gain for the

taxable year, an amount equal to the product obtained by multiplying the net capital gain”.

(C) Section 527(b)(2) is amended by striking out “net section 1201 gain” and inserting in lieu thereof “net capital gain”. 26 USC 527.

(D) Sections 535(b)(6) and 545(b)(5) are each amended— 26 USC 535, 545.

(1) by striking out from the paragraph heading “LONG-TERM” and inserting in lieu thereof “NET”,

(2) by striking out from the text “the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year” each place it appears and inserting in lieu thereof “the net capital gain for the taxable year”, and

(3) by striking out from the text “such excess” each place it appears and inserting in lieu thereof “such net capital gain”.

(E) Section 802(a)(2) is amended— 26 USC 802.

(i) by striking out “the net long-term capital gain of any life insurance company exceeds the net short-term capital loss” and inserting in lieu thereof “any life insurance company has a net capital gain”, and

(ii) by striking out “such excess” each place it appears and inserting in lieu thereof “such net capital gain”.

(F) Section 804(a)(2) is amended by striking out “by which the net long-term capital gain exceeds the net short-term capital loss” and inserting in lieu thereof “of the net capital gain”. 26 USC 804.

(G) Sections 809(b)(1)(B) and 809(b)(2)(B) are each amended by striking out “by which the net long-term capital gain exceeds the net short-term capital loss” and inserting in lieu thereof “of the net capital gain”. 26 USC 809.

(H) Section 815(b)(2)(A)(ii) is amended by striking out “by which the net long-term capital gain exceeds the net short-term capital loss” and inserting in lieu thereof “of the net capital gain”. 26 USC 815.

(I) Section 852(b)(2)(A) is amended by striking out “the excess, if any, of the net long-term capital gain over the net short-term capital loss” and inserting in lieu thereof “the amount of the net capital gain, if any”. 26 USC 852.

(J)(i) Section 852(b)(3)(A) is amended to read as follows:

“(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year in the case of every regulated investment company a tax, determined as provided in section 1201(a), on the excess, if any, of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only.”

(ii) The second sentence of section 852(b)(3)(C) is amended by striking out “excess of the net long-term capital gain over the net short-term capital loss” each place it appears and inserting in lieu thereof “net capital gain”.

(K) The second sentence of section 857(b)(3)(C) is amended by striking out “excess of the net long-term capital gain over the net short-term capital loss” each place it appears and inserting in lieu thereof “net capital gain”. 26 USC 857.

(L) Section 1201(b) is amended by striking out “net section 1201 gain” each place it appears and inserting in lieu thereof “net capital gain”. 26 USC 1201.

26 USC 1202.

(M) The first sentence of section 1202 is amended to read as follows: "If for any taxable year, a taxpayer other than a corporation has a net capital gain, 50 percent of the amount of the net capital gain shall be a deduction from gross income."

26 USC 381,
852, 4940.

(N) Sections 381(c)(3)(B), 381(c)(3)(C), 852(d), 4940(c)(1), and 4940(c)(4) are each amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

26 USC 1212.

(O) Section 1212(a)(1) is amended by striking out "net capital gain" each place it appears and inserting in lieu thereof "capital gain net income", and by striking out "net capital gains" and inserting in lieu thereof "capital gain net income".

26 USC 1247.

(P) Section 1247(a)(1)(B) is amended by striking out "the excess (determined as if such corporation were a domestic corporation) of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount (determined as if such corporation were a domestic corporation) of the net capital gain".

26 USC 1375.

(Q)(i) Section 1375(a)(1) is amended by striking out "the excess of the corporation's net long-term capital gain over its short-term capital loss" and inserting in lieu thereof "the corporation's net capital gain".

(ii) The second sentence of section 1375(a)(1) is amended by striking out "such excess" and inserting in lieu thereof "such net capital gain".

(iii) Section 1375(a)(3) is amended by striking out "the excess of an electing small business corporation's net long-term capital gain over its net short-term capital loss" and inserting in lieu thereof "an electing small business corporation's net capital gain".

26 USC 1247,
1378.

(R) The following provisions are each amended by striking out "the excess of the net long-term capital gain over the net short-term capital loss." and inserting in lieu thereof "the net capital gain": Sections 1247(a)(2)(A)(i), 1247(a)(2)(C), 1247(d)(1) and (2), 1378(a)(1), 1378(b)(1), and 1378(c)(3).

(34) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1240.—The table of sections of part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1240.

(35) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1315.—The table of sections for part II of subchapter Q of chapter 1 is amended by striking out the item relating to section 1315.

(36) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1321.—

26 USC 472.

(A) Section 472 is amended by striking out subsection (f).

26 USC 6422.

(B) Section 6422, as amended by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (3) through (13) as paragraphs (2) through (12), respectively.

Post, p. 1829.

(C) Section 6504 is amended by striking out paragraph (1).

Post, p. 1803.

(D) Section 6515 is amended by striking out paragraph (1).

(E) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part III.

(37) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 1331 THROUGH 1337.—

(A) The third sentence of section 901(a) is amended by striking out “under section 1333 (relating to war loss recoveries) or”. 26 USC 901.

(B) Section 936(a)(2), as added by this Act, is amended— 26 USC 936.

(i) by inserting “or” at the end of subparagraph (C), and

(ii) by striking out subparagraph (D).

(C) Section 6212(c)(2) is amended by striking out subparagraph (D). 26 USC 6212.

(D) Section 6515 is amended by striking out paragraph (6). 26 USC 6515.

(E) Section 6515, as amended by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (1), (2), (3), (4), (5), and (6) respectively.

(F) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part IV.

(38) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1342.—The table of sections for part V of subchapter Q of chapter 1 is amended by striking out the item relating to section 1342.

(39) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1346.—

(A) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1346.

(B) Section 6504 is amended by striking out paragraph (7). *Post*, p. 1829.

(40) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 1372.—Section 58(d)(2) is amended by striking out “, notwithstanding the provisions of section 1371(b)(1),”. 26 USC 58.

(41) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1465.—The table of sections for subchapter C of chapter 3 is amended by striking out the item relating to section 1465.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

(1) Section 37(f) is amended by striking out “a Territory”. *Ante*, p. 1559.

(2) Sections 105(e)(2), 273, and 454(b)(2) are each amended by striking out “, a Territory”. 26 USC 105, 273, 454.

(3) Section 117(b)(2)(A)(iv) is amended by striking out “a territory”. 26 USC 117.

(4) Section 162(a) is amended by striking out “territory”. 26 USC 162.

(5) Section 581 is amended by striking out “, of any State, or of any Territory” and inserting in lieu thereof “or of any State”, and by striking out “, Territorial”. 26 USC 581.

(6) Section 801(b)(3) is amended by striking out “or Territorial”. 26 USC 801.

(7) Section 861(a)(1) is amended by striking out “, any Territory, any political subdivision of a Territory”. 26 USC 861.

(8) Paragraphs (6) and (7) of section 1014(b) are each amended by striking out “Territory”. 26 USC 1014.

(9) Section 1221(5) is amended by striking out “or Territory”. 26 USC 1221.

(d) EFFECTIVE DATE.—Except as otherwise expressly provided in this section, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976. The amendments made by subsections (a)(29) and (b)(10) shall apply with respect to taxable years ending after the date of the enactment of this Act. 26 USC 2 note.

SEC. 1902. AMENDMENTS OF SUBTITLE B; ESTATE AND GIFT TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF SECTION 2012.—

26 USC 2012.

(A) Section 2012(b) (relating to credit for gift tax) is amended—

(i) by striking out “(b) In applying,” and inserting in lieu thereof “(b) VALUATION REDUCTIONS.—In applying,”; and

(ii) by striking out in paragraphs (2) and (3) “deduction)—then” and inserting in lieu thereof “deduction), then”.

(B) Section 2012(c) (relating to gift by spouse or third party) is amended by striking out “(c) Where the decedent” and inserting in lieu thereof “(c) WHERE GIFT CONSIDERED MADE ONE-HALF BY SPOUSE.—Where the decedent”.

(C) Section 2012(d)(1) (relating to computation of amount of gift tax) is amended by striking out “(d)(1) For purposes of” and inserting in lieu thereof the following:

“(d) COMPUTATION OF AMOUNT OF GIFT TAX PAID.—

“(1) AMOUNT OF TAX.—For purposes of”.

(D) Section 2012(d)(2) (relating to credit for gift tax) is amended by striking out “(2) For purposes” and inserting in lieu thereof: “(2) AMOUNT OF GIFT.—For purposes”.

26 USC 2013.

(2) AMENDMENTS OF SECTION 2013.—Section 2013(d)(3) is amended by striking out “, or the corresponding provision of prior law,”.

26 USC 2038.

(3) AMENDMENT OF SECTION 2038.—Section 2038 (relating to revocable transfers) is amended by striking out subsection (c) (relating to effect of disability in certain cases).

(4) AMENDMENTS OF SECTION 2055.—

26 USC 2055.

(A) Section 2055(b) (relating to powers of appointment) is amended to read as follows:

“(b) POWERS OF APPOINTMENT.—Property includible in the decedent’s gross estate under section 2041 (relating to powers of appointment) received by a donee described in this section shall, for purposes of this section, be considered a bequest of such decedent.”

(B) Section 2055(f) (relating to cross references) is amended to read as follows:

(f) CROSS REFERENCES.—

“(1) For option as to time for valuation for purpose of deduction under this section, see section 2032.

“(2) For exemption of gifts and bequests to or for the benefit of Library of Congress, see section 5 of the Act of March 3, 1925, as amended (2 U.S.C. 161).

“(3) For treatment of gifts and bequests for the benefit of the Office of Naval Records and History as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code.

“(4) For treatment of gifts and bequests to or for the benefit of National Park Foundation as gifts or bequests to or for the use of the United States, see section 8 of the Act of December 18, 1967 (16 U.S.C. 191).

“(5) For treatment of gifts, devises, or bequests accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts, devises, or bequests to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

“(6) For treatment of gifts or bequests of money accepted by the Attorney General for credit to ‘Commissary Funds, Federal Prisons,’ as gifts or bequests to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4).

16 USC 191.

"(7) For payment of tax on gifts and bequests of United States obligations to the United States, see section 24 of the Second Liberty Bond Act (31 U.S.C. 757e).

"(8) For treatment of gifts and bequests for benefit of the Naval Academy as gifts or bequests to or for the use of the United States, see section 6973 of title 10, United States Code.

"(9) For treatment of gifts and bequests for benefit of the Naval Academy Museum as gifts or bequests to or for the use of the United States, see section 6974 of title 10, United States Code.

"(10) For exemption of gifts and bequests received by National Archives Trust Fund Board, see section 2308 of title 44, United States Code."

(5) AMENDMENTS OF SECTION 2106.—

(A) Section 2106(a)(2)(F) (relating to cross references concerning the charitable deduction for estate tax purposes) is amended to read as follows:

"(F) CROSS REFERENCES.—

"(1) For option as to time for valuation for purposes of deduction under this section, see section 2032.

"(2) For exemption of certain bequests for the benefit of the United States and for rules of construction for certain bequests, see section 2055(f)."

(B) Section 2106 (relating to taxable estate of nonresidents) is amended by striking out subsection (c) (relating to treatment of United States bonds).

(6) AMENDMENT OF SECTIONS 2107 AND 2108.—Section 2107(a) (relating to estate tax on expatriates) and section 2108(a) (relating to application of pre-1967 estate tax provisions) are each amended by striking out "the date of enactment of this section" and inserting in lieu thereof "November 13, 1966".

(7) AMENDMENT RELATING TO SECTION 2201.—

(A) Section 6(b)(1) of the Act of January 2, 1975 (Public Law 93-597; 88 Stat. 1950) is amended by striking out "Section 2210" and inserting in lieu thereof "Section 2201".

(B) The amendment made by subsection (A) is effective July 1, 1973.

(8) REPEAL OF SECTION 2202.—Section 2202 (relating to missionaries in foreign service) is repealed.

(9) AMENDMENT OF SECTION 2204.—The last sentence of section 2204(b) (relating to the discharge from personal liability of a fiduciary other than the executor) is amended by striking out "has not been" and inserting in lieu thereof "has been".

(10) AMENDMENT OF SECTION 2501.—Section 2501(a)(1) (relating to imposition of gift tax) is amended to read as follows:

"(1) GENERAL RULE.—A tax, computed as provided in section 2502, is hereby imposed for each calendar quarter on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident."

(11) AMENDMENT OF SECTION 2522.—Subsection (d) of section 2522 (relating to cross references) is amended to read as follows:

"(d) CROSS REFERENCE.—

"For exemption of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain gifts, see section 2055(f)."

(12) AMENDMENTS TO SECTIONS REFERRING TO TERRITORIES.—

(A) The following provisions are each amended by striking out "Territory": sections 2055(a)(1), 2056(c)(2)(B), and 2106(a)(2)(A)(i).

- (B) The following provisions are each amended by striking out “or Territory”: sections 2011(a), 2011(e), and 2053(d).
- 26 USC 2011, 2053.
- (C) Section 2016 is amended by striking out “Territory or”.
- 26 USC 2016.
- (D) Sections 2522(a)(1) and 2522(b)(1) are each amended by striking out “Territory,”.
- 26 USC 2522.
- (E) Section 2523(f)(1) is amended by striking out “Territory, or”.
- 26 USC 2523.
- (b) CONFORMING AND CLERICAL AMENDMENTS.—
- (1) AMENDMENT CONFORMING TO REPEAL OF SECTION 2202.—The table of sections for subchapter C of chapter 11 is amended by striking out the item relating to section 2202.
- (2) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 2055.—
- 26 USC 6503. (A) Section 6503, as amended by this Act, is amended by striking out subsection (e), and by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively.
- 26 USC 6167. (B) Section 6167(h)(2) is amended by striking out “section 6503(f)” and inserting in lieu thereof “section 6503(e)”.
- (c) EFFECTIVE DATES.—
- (1) ESTATE TAX AMENDMENTS.—The amendments made by paragraphs (1) through (10), and paragraphs (14) (A), (B), and (C), of subsection (a), and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (11) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1970.
- 26 USC 2011 note.
- (2) GIFT TAX AMENDMENTS.—The amendments made by paragraphs (12), (13), and (14) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976.
- 26 USC 2501 note.
- SEC. 1903. AMENDMENTS OF SUBTITLE C; EMPLOYMENT TAXES.**
- (a) IN GENERAL.—
- (1) AMENDMENTS OF SECTIONS 3101 AND 3111.—
- 26 USC 3101. (A) Section 3101(a) (relating to rate of tax on employees for old-age, survivors, and disability insurance) and section 3111(a) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1), (2), (3), and (4), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.
- 26 USC 3111. (B) Section 3101(b) (relating to rate of tax on employees for hospital insurance) and section 3111(b) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1) and (2), and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.
- 26 USC 3113. (2) REPEAL OF SECTION 3113.—Section 3113 (relating to application of social security tax on District of Columbia credit unions) is repealed.
- (3) AMENDMENTS OF SECTION 3121.—
- 26 USC 3121. (A) Section 3121(b) (relating to employment) is amended—
- (i) by striking out “performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever

nature, performed after 1954” and inserting in lieu thereof “, of whatever nature, performed”, and

(ii) by striking out “, in the case of service performed after 1954.”.

(B) Section 3121(b)(1) is amended by striking out “65 Stat. 119;”. 26 USC 3121.

(C) Section 3121(b)(6)(B)(v) is amended by striking out “Secretary of the Treasury” and inserting in lieu thereof “Secretary of Transportation”.

(D) Section 3121(g)(3) (relating to agricultural labor) is amended by striking out “46 Stat. 1550, § 3;”.

(E) Section 3121(k)(1) (relating to exemption of certain organizations) is amended by striking out subparagraphs (F) and (H) and by redesignating subparagraph (G) as subparagraph (F).

(F) Section 3121(l)(2) (relating to employees of foreign subsidiaries) is amended by striking out “, but in no case prior to January 1, 1955”.

(G) Section 3121(m)(1) (relating to service in the uniformed services) is amended by striking out “after December 1956”.

(4) AMENDMENTS OF SECTION 3122.—The last sentence of section 3122 (relating to Federal service) is amended by striking out “Secretary” each place it appears and inserting in lieu thereof “Secretary of Transportation”. 26 USC 3122.

(5) AMENDMENT OF SECTION 3125.—Section 3125(c) (relating to returns in the case of Governmental employees in the District of Columbia) is amended by striking out “Commissioners of the District of Columbia or such agents as they may designate” and by inserting in lieu thereof “Mayor of the District of Columbia or such agents as he may designate”. 26 USC 3125.

(6) AMENDMENT OF SECTION 3201.—Section 3201 (relating to rate of tax on railroad employees) is amended— 26 USC 3201.

(A) by striking out “of the Internal Revenue Code of 1954” each place it appears;

(B) by striking out “of such Code”;

(C) by striking out “after September 30, 1973, as is” and inserting in lieu thereof “as is”; and

(D) by striking out “any month after September 30, 1973” and inserting in lieu thereof “any month”.

(7) AMENDMENTS OF SECTION 3202.—

(A) The second sentence of section 3202(a) (relating to reduction of tax by railroad employer) is amended— 26 USC 3202.

(i) by striking out “after September 30, 1973,” each place it appears;

(ii) by striking out “after September 30, 1973 and the aggregate” and inserting in lieu thereof “and the aggregate”;

(iii) by striking out “of the Internal Revenue Code of 1954” each place it appears; and

(iv) by inserting a comma immediately after “for any month” each place it appears.

(B) Section 3202(b) (relating to indemnification of employer) is amended by striking out “made”.

(8) AMENDMENTS OF SECTION 3211.—Section 3211(a) (relating to rate of tax on railroad employee representatives) is amended— 26 USC 3211.

(A) by striking out “3111(a), 3111(b)” and inserting in lieu thereof “3111(a), and 3111(b)”;

(B) by striking out “of the Internal Revenue Code of 1954” each place it appears;

(C) by striking out “rendered by him after September 30, 1973,” and inserting in lieu thereof “rendered by him”; and

(D) by striking out “after September 30, 1973”.

(9) AMENDMENTS OF SECTION 3221.—

(A) The first sentence of section 3221(a) (relating to rate of tax on railroad employers) is amended—

(i) by striking out “after September 30, 1973,” each place it appears;

(ii) by striking out “after September 30, 1973; except that” and inserting in lieu thereof “, except that”;

(iii) by striking out “after September 30, 1973 of the aggregate” and inserting in lieu thereof “of the aggregate”;

(iv) by striking out “of the Internal Revenue Code of 1954” each place it appears; and

(v) by inserting a comma before “the tax imposed”.

(B) Section 3221(b) (relating to rate of tax on railroad employers) is amended to read as follows:

“(b) The rate of tax imposed by subsection (a) shall be increased by the rate of tax imposed with respect to wages by section 3111(a) plus the rate imposed by section 3111(b).”

(C) Section 3221(c) (relating to additional railroad retirement tax) is amended—

(i) by striking out “(1) at the rate of 2 cents for the period beginning November 1, 1966, and ending March 31, 1970, and (2) commencing April 1, 1970,” and

(ii) by striking out “commencing with the quarter beginning April 1, 1970”.

(10) AMENDMENTS OF SECTION 3231.—

(A) Section 3231(a) (defining employer) is amended by striking out “44 Stat. 577;”.

(B) Section 3231(b) (defining employee) is amended by striking out “50 Stat. 312;”.

(C) Section 3231(c) (defining employee representative) is amended by striking out “44 Stat. 577;”.

(D) Section 3231(d) (7) (defining service) is amended by striking out “50 Stat. 308;”.

(11) AMENDMENTS OF SECTION 3301.—Section 3301 (relating to Federal unemployment tax rate) is amended—

(A) by striking out “the calendar year 1970 and each calendar year thereafter” and inserting in lieu thereof “each calendar year”, and

(B) by striking out the last sentence.

(12) AMENDMENTS OF SECTION 3302.—

(A) Section 3302(a) (relating to credits against tax) is amended by striking out “(10-month period in the case of October 31, 1972)”.

(B) Section 3302(b) (relating to additional credit) is amended—

(i) by striking out “(10-month period in the case of October 31, 1972)”, and

26 USC 3221.

26 USC 3231.

26 USC 3301.

26 USC 3302.

(ii) by striking out "12 or 10-month period, as the case may be," and inserting in lieu thereof "12-month period".

(C) (i) Section 3302(c) (relating to limitation on credits against unemployment tax) is amended by striking out paragraph (2) and the unnumbered paragraph immediately following such paragraph (2) (relating to advances made to a State unemployment account before September 13, 1960), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively. 26 USC 3302.

(ii) Section 3302(c)(2) (relating to advances made to a State unemployment account after September 12, 1960), as redesignated by clause (i) of this subparagraph, is amended by striking out "on or after the date of the enactment of the Employment Security Act of 1960", and by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1)".

(iii) Section 3302(c)(3) (relating to reductions with respect to certain agreements under the Trade Act of 1974), as redesignated by clause (i) of this subparagraph, is amended by striking out "paragraphs (1), (2), and (3)" and inserting in lieu thereof "paragraphs (1) and (2)".

(iv) Section 3302(d)(3) (relating to effect of repayment of advances) is amended by striking out "or (3)".

(v) Section 3302(d)(4), (5), and (6) (relating to special rules) are each amended by striking out "subsection (c)(3)" each place it appears and inserting in lieu thereof "subsection (c)(2)".

(vi) Section 3302(d)(7) (relating to determination and certification of percentages) is amended by striking out "subsection (c)(3)(B) or (C)" and inserting in lieu thereof "subsection (c)(2)(B) or (C)".

(D) Section 3302(d) (relating to special rules for credits against the unemployment tax) is amended by striking out paragraph (8) (a cross reference).

(13) AMENDMENTS TO SECTION 3303.—Section 3303(b) (relating to certification with respect to additional credit allowance) is amended— 26 USC 3303.

(A) by striking out "(10-month period in the case of October 31, 1972)" each place it appears,

(B) by striking out "12 or 10-month period, as the case may be," each place it appears in paragraphs (1) and (2), and inserting in lieu thereof "12-month period", and

(C) by striking out "12 or 10-month period, as the case may be," in paragraph (3) and inserting in lieu thereof "12-month period".

(14) AMENDMENTS TO SECTION 3304.—

(A) Section 3304(a)(3) (relating to requirements) is amended by striking out "49 Stat. 640; 52 Stat. 1104, 1105;". 26 USC 3304.

(B) Section 3304(c) (relating to certification) is amended by striking out "(10-month period in the case of October 31, 1972)".

(15) AMENDMENTS TO SECTION 3305.—

(A) Section 3305(g) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,". 26 USC 3305.

26 USC 3305.

(B) Section 3305(h) (relating to certain contributions to States) is amended by striking out “on or after July 1, 1953, and”.

(C) Section 3305(j) (relating to denial of credits in certain cases) is amended by striking out “after December 31, 1971.”

26 USC 3306.

(16) AMENDMENTS OF SECTION 3306.—

(A) Section 3306(c) (9) (relating to the exclusion of service performed by certain employees and employee representatives from the definition of employment) is amended by striking out “52 Stat. 1094, 1095;”.

(B) Section 3306(c) (18) (relating to the exclusion of certain service performed by nonresident aliens from the definition of employment) is amended by inserting after the “Immigration and Nationality Act, as amended” the following: “(8 U.S.C. 1101(a) (15) (F) or (J))”.

(C) Section 3306(f) (relating to the definition of an unemployment fund) is amended by striking out “49 Stat. 640; 52 Stat. 1104, 1105;”.

(D) Section 3306(n) (relating to vessels operated by general agents of the United States) is amended by striking out “on or after July 1, 1953,”.

26 USC 3402.

(17) AMENDMENT OF SECTION 3402.—Section 3402(1) (3) (B) (relating to marital status) is amended by striking out “section 2(b)” and inserting in lieu thereof “section 2(a)”.

(b) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 3113.—The table of sections for subchapter B of chapter 21 is amended by striking out the item relating to section 3113.

26 USC 3401, 3403.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—Sections 3401(c) and 3404 are each amended by striking out “Territory,” each place it appears.

26 USC 3101 note.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to wages paid after December 31, 1976, except that the amendments made to chapter 22 of the Internal Revenue Code of 1954 shall apply with respect to compensation paid for services rendered after December 31, 1976.

26 USC 3201.

SEC. 1904. AMENDMENTS OF SUBTITLE D; MISCELLANEOUS EXCISE TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF CHAPTER 31.—

(A) So much of chapter 31 (relating to retailers excise taxes) as precedes section 4041 is amended to read as follows:

“CHAPTER 31—SPECIAL FUELS

“Sec. 4041. Imposition of tax.”

26 USC 4041.

(B) Section 4041(g) (relating to exemptions from fuel taxes) is amended to read as follows:

“(g) OTHER EXEMPTIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section—

“(1) on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d) (3)) ;

“(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

“(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

“(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel.

For purposes of paragraph (4), the term ‘nonprofit educational organization’ means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.”

“Nonprofit educational organization.”

(C) Section 4041 (relating to tax on fuels) is amended by adding at the end thereof the following new subsection:

26 USC 4041.

“(i) SALES BY UNITED STATES, ETC.—The taxes imposed by this section shall apply with respect to liquids sold at retail by the United States, or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes.”

(D) Chapter 31 is amended by striking out section 4042 (a cross reference) and subchapter F (special provisions applicable to retailers taxes).

26 USC 4042,
4054–4058.

(2) AMENDMENTS OF SECTION 4216.—

(A) Section 4216 (relating to definition of price) is amended by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

26 USC 4216.

(B) Paragraphs (3), (4), and (5) of section 4216(b) (relating to constructive sales price) are each amended by striking out “subsections (a) and (f)” each place it appears and inserting in lieu thereof “subsections (a) and (e)”.

(3) AMENDMENT OF SECTION 4217.—Section 4217(d) (relating to lease treated as sale) is amended by striking out paragraph (4) (relating to certain 1958 transitional rules).

26 USC 4217.

(4) REPEAL OF SECTION 4226.—Section 4226 (relating to floor-stock taxes imposed before 1967) is repealed.

26 USC 4226.

(5) AMENDMENT OF SECTION 4227.—Section 4227 (relating to cross references) is amended to read as follows:

26 USC 4227.

“SEC. 4227. CROSS REFERENCE.

“For credit for taxes on tires and inner tubes, see section 6416(c).”

(6) AMENDMENT OF SECTION 4253.—Section 4253 (relating to exemptions from the tax on communications services) is amended by adding at the end thereof the following new subsections:

26 USC 4253.

“(i) STATE AND LOCAL GOVERNMENTAL EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 upon any payment received for services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.

“(j) EXEMPTION FOR NONPROFIT EDUCATIONAL ORGANIZATIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a nonprofit educational organization for services or facilities furnished to such organization. For purposes of this subsection, the term ‘nonprofit educational organization’ means an educational organization described in section

170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

(7) AMENDMENTS OF SECTION 4261.—

26 USC 4261.

(A) Subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) are each amended by striking out "which begins after June 30, 1970,".

(B) Section 4261(c) is amended by striking out "and begins after June 30, 1970".

26 USC 4271.

(8) AMENDMENT OF SECTION 4271.—Section 4271(a) (relating to tax on transportation of property by air) is amended by striking out "which begins after June 30, 1970,".

26 USC 4292.

(9) REPEAL OF SECTION 4292.—Section 4292 (relating to State and local governmental exemption from the tax on communications services) is repealed.

26 USC 4294.

(10) REPEAL OF SECTION 4294.—Section 4294 (relating to exemption of nonprofit educational organizations from the tax on communications services) is repealed.

26 USC 4295.

(11) REPEAL OF SECTION 4295.—Section 4295 (a cross reference) is repealed.

(12) AMENDMENT OF CHAPTER 34.—Chapter 34 (relating to documentary stamp taxes) is amended to read as follows:

"CHAPTER 34—POLICIES ISSUED BY FOREIGN INSURERS

"Sec. 4371. Imposition of tax.

"Sec. 4372. Definitions.

"Sec. 4373. Exemptions.

"Sec. 4374. Liability for tax.

26 USC 4371.

"SEC. 4371. IMPOSITION OF TAX.

"There is hereby imposed, on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates:

"(1) CASUALTY INSURANCE AND INDEMNITY BONDS.—4 cents on each dollar, or fractional part thereof, of the premium paid on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372(d);

"(2) LIFE INSURANCE, SICKNESS AND ACCIDENT POLICIES, AND ANNUITY CONTRACTS.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of life, sickness, or accident insurance, or annuity contract, unless the insurer is subject to tax under section 819; and

"(3) REINSURANCE.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

26 USC 4372.

"SEC. 4372. DEFINITIONS.

"(a) FOREIGN INSURER OR REINSURER.—For purposes of section 4371, the term 'foreign insurer or reinsurer' means an insurer or reinsurer who is a nonresident alien individual, or a foreign partnership, or a

foreign corporation. The term includes a nonresident alien individual, foreign partnership, or foreign corporation which shall become bound by an obligation of the nature of an indemnity bond. The term does not include a foreign government, or municipal or other corporation exercising the taxing power.

“(b) **POLICY OF CASUALTY INSURANCE.**—For purposes of section 4371(1), the term ‘policy of casualty insurance’ means any policy (other than life) or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed. *Ante*, p. 1812.

“(c) **INDEMNITY BOND.**—For purposes of this chapter, the term ‘indemnity bond’ means any instrument by whatever name called whereby an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed. The term includes any bond for indemnifying any person who shall have become bound or engaged as surety, and any bond for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, where a premium is charged for the execution of such bond.

“(d) **INSURED.**—For purposes of section 4371(1), the term ‘insured’ means—

“(1) a domestic corporation or partnership, or an individual resident of the United States, against, or with respect to, hazards, risks, losses, or liabilities wholly or partly within the United States, or

“(2) a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States, against, or with respect to, hazards, risks, losses, or liabilities within the United States.

“(e) **POLICY OF LIFE, SICKNESS, OR ACCIDENT INSURANCE, OR ANNUITY CONTRACT.**—For purposes of section 4371(2), the term ‘policy of life, sickness, or accident insurance, or annuity contract’ means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.

“(f) **POLICY OF REINSURANCE.**—For purposes of section 4371(3), the term ‘policy of reinsurance’ means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.

“SEC. 4373. EXEMPTIONS.

26 USC 4373.

“The tax imposed by section 4371 shall not apply to—

“(1) **DOMESTIC AGENT.**—Any policy, indemnity bond, or annuity contract signed or countersigned by an officer or agent of the insurer in a State, or in the District of Columbia, within which such insurer is authorized to do business; or

“(2) **INDEMNITY BOND.**—Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check, issued by the United States.

“SEC. 4374. LIABILITY FOR TAX.

26 USC 4374.

“The tax imposed by this chapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the

documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax."

(13) AMENDMENT OF SECTION 4493.—

26 USC 4493.

(A) Section 4493(b)(1) (relating to certain persons engaged in foreign air commerce) is amended by striking out "beginning on or after July 1, 1970".

(B) Section 4493(b)(2) is amended by striking out the last sentence.

(14) AMENDMENT OF CHAPTER 37.—So much of chapter 37 as precedes section 4501 (relating to tax on sugar) is amended to read as follows:

"CHAPTER 37—SUGAR

"Sec. 4501. Imposition of tax.

"Sec. 4502. Definitions.

"Sec. 4503. Exemptions for sugar manufactured for home consumption."

26 USC
4591-4597.

(15) REPEAL OF SECTIONS 4591 THROUGH 4597.—Chapter 38 (relating to import taxes on oleomargarine) is repealed.

26 USC
4801-4806.

(16) REPEAL OF SECTIONS 4801 THROUGH 4806.—Subchapter B of chapter 39 (relating to tax on white phosphorus matches) is repealed.

26 USC
4811-4826.

(17) REPEAL OF SECTIONS 4811 THROUGH 4826.—Subchapter C of chapter 39 (relating to tax on unadulterated butter) is repealed.

26 USC
4881-4886.

(18) REPEAL OF SECTIONS 4881 THROUGH 4886.—Subchapter E of chapter 39 (relating to tax on circulation other than of national banks) is repealed.

26 USC 4901.

(19) AMENDMENT OF SECTION 4901.—Section 4901 (relating to payment of occupational taxes) is amended by striking out subsection (c).

26 USC 4905.

(20) AMENDMENT OF SECTION 4905.—Section 4905(a) (relating to liability for occupational taxes in case of death or change of location) is amended by striking out "wife" and inserting in lieu thereof "spouse".

(21) REPEAL OF SECTION 4911 THROUGH 4931.—

26 USC
4911-4931.

(A) Chapter 41 (relating to interest equalization tax) is repealed.

26 USC 4911
note.

(B) The repeal made by subparagraph (A) shall apply with respect to acquisitions of stock and debt obligations made after June 30, 1974.

(22) AMENDMENTS OF SECTION 4973.—

26 USC 4973.

(A) So much of section 4973(a) (relating to tax on excess contributions) as follows "of any individual," in paragraph (3) thereof is amended to read as follows:

"there is imposed for each taxable year a tax in an amount equal to 6 percent of the amount of the excess contributions to such individual's accounts, annuities, or bonds (determined as of the close of the taxable year). The amount of such tax for any taxable year shall not exceed 6 percent of the value of the account, annuity, or bond (determined as of the close of the taxable year). In the case of an endowment contract described in section 408(b), the tax imposed by this section does not apply to any amount allocable to life, health, accident, or other insurance under such contract. The tax imposed by this subsection shall be paid by such individual."

(B) Section 4973(c) is amended by striking out “subsection (a) (3)” and inserting in lieu thereof “subsection (a) (2)”. 26 USC 4973.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO AMENDMENT OF CHAPTER 31.—

(A) Section 6416(a)(1) is amended by striking out “(retailers taxes)” and inserting in lieu thereof “(special fuels)”. 26 USC 6416.

(B) Section 6416(e) is amended by striking out “subchapter E of”.

(2) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 4216.—Section 6416(b)(1) is amended by striking out “section 4216(f) (2) and (3)” and inserting in lieu thereof “section 4216 (e) (2) and (3)”.

(3) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 4226.—The table of sections for subchapter G of chapter 32 is amended by striking out the item relating to section 4226.

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTIONS 4292, 4294, AND 4295.—The table of sections for subchapter E of chapter 33 is amended by striking out the items relating to sections 4292, 4294, and 4295.

(5) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 34.—

(A) Section 7270 is amended by striking out “the affixing of stamps on insurance policies, etc.” and inserting in lieu thereof “liability for tax on policies issued by foreign insurers”. 26 USC 7270.

(B) Section 6808 is amended by striking out paragraph (4). 26 USC 6808.

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 37.—

(A) Section 7240 is amended by striking out “subchapter A of”. 26 USC 7240.

(B) Section 7655(a) is amended—

(i) by striking out “Subchapter A of chapter 37” in paragraph (5) and inserting in lieu thereof “Chapter 37”, and

(ii) by redesignating paragraph (5) as paragraph (3).

(7) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4591 THROUGH 4597.—

(A) Section 6808 is amended by striking out paragraph (7). 26 USC 6808.

(B) (i) Section 7234 (relating to violations of laws concerning oleomargarine or adulterated butter operations) is repealed. 26 USC 7234.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7234.

(C) (i) Section 7265 (relating to other offenses concerning oleomargarine or adulterated butter operations) is repealed. 26 USC 7265.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7265.

(D) Section 7611(a), as redesignated by this Act, is amended by striking out paragraph (1). *Ante*, p. 1699.

(E) The table of chapters for subtitle D is amended by striking out the item relating to chapter 38.

(8) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4801 THROUGH 4806.—

26 USC 4905.

(A) Section 4905(b) is amended to read as follows:

“(b) REGISTRATION.—

“For registration in case of wagering, see section 4412.”

26 USC 6808.

(B) Section 6808 is amended by striking out paragraph (12).

26 USC 7012.

(C) Section 7012 is amended by striking out subsection (e).

26 USC 7239.

(D) (i) Section 7239 (relating to violations of laws concerning white phosphorus matches) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7239.

26 USC 7267,
7274.

(E) (i) Sections 7267 and 7274 (relating to offenses and penalties concerning white phosphorus matches) are each repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the items relating to sections 7267 and 7274.

26 USC 7272.

(F) Section 7272(b) is amended by striking out “4804 (d).”

26 USC 7303.

(G) Section 7303 is amended by striking out paragraph (6).

26 USC 7201.

(H) (i) Part II of subchapter C of chapter 75 (relating to provisions common to forfeitures) is amended by striking out section 7328 (relating to confiscation of white phosphorus matches), and by redesignating section 7329 (relating to cross references) as section 7328.

26 USC 7328,
7329.

(ii) The table of sections for part II of subchapter C of chapter 75 is amended by striking out the last two items and inserting in lieu thereof the following:

“Sec. 7328. Cross references.”

(9) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4811 THROUGH 4826.—

26 USC 6808.

(A) Section 6808 (relating to cross references) is amended by striking out paragraph (10).

26 USC 7235.

(B) (i) Section 7235 (relating to violations of laws concerning adulterated butter and process or renovated butter) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7235.

26 USC 7264.

(C) (i) Section 7264 (relating to offenses concerning renovated or adulterated butter) is repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7264.

26 USC 7303.

(D) Section 7303 is amended by striking out paragraphs (3), (4), and (5), and by redesignating paragraphs (7) and (8) as paragraphs (2) and (3), respectively.

Ante, p. 1699.

(E) Section 7611(a), as redesignated by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(10) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 4911 THROUGH 4931.—

(A) (i) (I) Section 263, as amended by this Act, is amended by striking out subsections (a) (3) and (d) (relating to the allowance of deductions for payment of interest equalization tax), and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively. 26 USC 263.

(II) Section 263(d), as redesignated by clause (i) (I) of this subparagraph, is amended by striking out “subsection (f)” and inserting in lieu thereof “subsection (e)”.

(ii) Section 6011 (relating to requirement of return, statement, or list) is amended by striking out subsection (d) (relating to interest equalization tax returns, etc.), and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively. 26 USC 6011.

(iii) (I) Section 6076 (relating to time for filing interest equalization tax returns) is repealed. 26 USC 6076.

(II) The table of sections for part V of subchapter A of chapter 61 is amended by striking out the item relating to section 6076.

(iv) Section 6611 (relating to interest on overpayments) is amended by striking out subsection (h) (relating to overpayments of interest equalization tax) and by redesignating subsection (i) as subsection (h). 26 USC 6611.

(v) Section 6651 (relating to failure to file tax return or to pay tax) is amended by striking out subsection (e) (relating to certain interest equalization tax returns). 26 USC 6651.

(vi) (I) Section 6680 (relating to failure to file interest equalization tax returns) is repealed. 26 USC 6680.

(II) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6680.

(vii) The amendments made by this subparagraph shall apply with respect to acquisitions of stock or debt obligations made after June 30, 1974, except that the repeal of paragraph (2) of section 6011(d) under clause (ii) shall apply with respect to loans and commitments made after such date. 26 USC 263 note.

(B) Section 861(a) (1) (G) (relating to income from sources within the United States) is amended— 26 USC 861.

(i) by striking out “section 4912(c)” and inserting in lieu thereof “subsection (c) of section 4912 (as in effect before July 1, 1974)” ; and

(ii) by striking out “section 4912(c) (2)” and inserting in lieu thereof “subsection (c) (2) of such section”.

(C) The second sentence of section 1232(b) (2) (relating to the definition of the issue price of bonds and other evidences of indebtedness) is amended by striking out “section 4911” and inserting in lieu thereof “section 4911, as in effect before July 1, 1974”. 26 USC 1232.

(D) (i) Section 6681 (relating to false equalization tax certificates) is repealed. 26 USC 6681.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6681.

(iii) The amendments made by this subparagraph shall apply with respect to actions occurring after June 30, 1974. 26 USC 6681 note.

(E) (i) Section 6689 (relating to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements) is repealed. 26 USC 6689.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6689.

26 USC 6689
note.

(iii) The amendments made by this subparagraph shall apply with respect to stock or debt obligations issued after June 30, 1974.

26 USC 7241.

(F) (i) Section 7241 (relating to penalty for fraudulent equalization tax certificates) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7241.

26 USC 7241,
note.

(iii) The amendments made by this subparagraph shall apply with respect to statements and certificates executed after June 30, 1974.

(G) The table of chapters for subtitle D is amended by striking out the item relating to chapter 41.

26 USC 4482.

(c) AMENDMENT TO PROVISION REFERRING TO TERRITORIES.—Section 4482(c) (1) is amended by striking out “, a Territory of the United States,”.

26 USC 4041
note.

(d) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 1905. AMENDMENTS OF SUBTITLE E; ALCOHOL, TOBACCO, AND CERTAIN OTHER EXCISE TAXES.

(a) IN GENERAL.—

26 USC 5005.

(1) AMENDMENT OF SECTION 5005.—Section 5005(c) (2) (relating to transfers in bond of distilled spirits) is amended by striking out the last two sentences and inserting in lieu thereof the following: “Such relief from liability shall be effective from the time of removal from the transferor’s bonded premises, or from the time of divestment of interest, whichever is later.”

26 USC 5008.

(2) AMENDMENTS OF SECTION 5008.—

(A) Section 5008(b) (1) (relating to abatement, remission, refund, and allowance for loss of destruction of distilled spirits) is amended by inserting immediately after “the tax imposed by this chapter” the following: “or by section 7652”.

(B) Section 5008(b) (2) is amended by striking out “the taxes imposed under section 5001(a) (1)” and all that follows and inserting in lieu thereof the following: “the taxes imposed under section 5001(a) (1), under subpart B of this part, or under section 7652 on the spirits so destroyed, to the proprietor of the distilled spirits plant who withdrew the distilled spirits on payment or determination of tax.”

(C) Subsections (c) (1) and (d) (1) of section 5008 are each amended by inserting immediately after “under section 5001(a) (1)” the following: “or under section 7652”.

(D) Section 5008(d) (1) is amended by striking out “, on or after July 1, 1959,”.

26 USC 5009.

(3) AMENDMENT OF SECTION 5009.—Section 5009(b) (3) is amended by striking out “46 Stat. 694;”.

26 USC 5025.

(4) AMENDMENT OF SECTION 5025.—Section 5025(j) (relating to stabilization of distilled spirits) is amended by striking out “the bottling of distilled spirits,” and inserting in lieu thereof “the bottling of distilled spirits, or preparatory to exportation,”.

26 USC 5054.

(5) AMENDMENT OF SECTION 5054.—Section 5054 (relating to determination and collection of tax on beer) is amended by striking out subsection (c) (relating to stamps or other devices as

evidence of payment of tax) and by redesignating subsection (d) as subsection (c).

(6) AMENDMENTS OF SECTION 5061.—

(A) Section 5061(a) (relating to collections of alcohol taxes) is amended by striking out the last sentence. 26 USC 5061.

(B) Section 5061(b) (relating to methods of collection) is amended to read as follows:

“(b) EXCEPTIONS.—Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, rectified distilled spirits and wines, and beer under—

“(1) section 5001(a) (5), (6), or (7),

“(2) section 5006(c) or (d),

“(3) section 5026(a) (2),

“(4) section 5041(d),

“(5) section 5043(a) (3),

“(6) section 5054(a) (3) or (4), or

“(7) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed.”

(C) Section 5061(c) (relating to applicability of other provisions of law) is amended to read as follows:

“(c) IMPORT DUTIES.—The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue tax.”

(7) AMENDMENT OF SECTION 5113.—Section 5113(f) (1) (relating to retail dealers in liquors) is amended by striking out “wines or beer” and inserting in lieu thereof “distilled spirits, wines, or beer”. 26 USC 5113.

(8) AMENDMENTS OF SECTION 5117.—Section 5117 (relating to prohibited purchases by dealers) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection: 26 USC 5117.

“(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.”

(9) AMENDMENT OF SECTION 5121.—Section 5121(c) (relating to limited retail dealers) is amended to read as follows: 26 USC 5121.

“(c) LIMITED RETAIL DEALERS.—Every limited retail dealer shall pay a special tax of \$4.50 for each calendar month in which sales are made as such dealer; except that the special tax shall be \$2.20 for each calendar month in which only sales of beer or wine are made.”

(10) AMENDMENT OF SECTION 5122.—Section 5122(c) (relating to definition of limited retail dealer) is amended by striking out “beer or wine” each place it appears and inserting in lieu thereof “distilled spirits, wine, or beer”. 26 USC 5122.

(11) AMENDMENT OF SECTION 5131.—Section 5131(a) (relating to eligibility for drawback) is amended by striking out “produced in a domestic registered distillery or industrial alcohol plant and withdrawn from bond, or using distilled spirits withdrawn from the bonded premises of a distilled spirits plant,”. 26 USC 5131.

26 USC 5142.

(12) AMENDMENT OF SECTION 5142.—Section 5142(c) (relating to payment of occupational taxes) is amended to read as follows:
 “(c) HOW PAID.—

Regulations.

“(1) PAYMENT BY RETURN.—The special taxes imposed by this part shall be paid on the basis of a return under such regulations as the Secretary shall prescribe.

“(2) STAMP DENOTING PAYMENT OF TAX.—After receiving a properly executed return and remittance of any special tax imposed by this subpart, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period.”

26 USC 5171.

(13) AMENDMENTS OF SECTION 5171.—Section 5171(b) (relating to permits for operation of business as distillers, etc.) is amended—

(A) in paragraph (1), by striking out “49 Stat. 978;”, and

(B) by striking out paragraph (3) (relating to continuance of business after June 30, 1959, pending application for permit).

26 USC 5174.

(14) AMENDMENT OF SECTION 5174.—Section 5174(a) (2) (A) (relating to withdrawal bonds for distilled spirits) is amended by striking out “such spirits” and inserting in lieu thereof “distilled spirits from bond”.

26 USC 5232.

(15) AMENDMENT OF SECTION 5232.—Section 5232(a) (relating to transfer of imported distilled spirits) is amended by striking out “and the importer” and inserting in lieu thereof “and the importer, or the person bringing such distilled spirits into the United States.”

26 USC 5233.

(16) AMENDMENT OF SECTION 5233.—Section 5233(b) (4) (relating to bottling requirements) is amended by striking out “49 Stat. 977;”.

26 USC 5234.

(17) AMENDMENT OF SECTION 5234.—The first sentence of section 5234(a) (2) (relating to the mingling of distilled spirits) is amended by striking out “8 years” and inserting in lieu thereof “20 years”.

26 USC 5314.

(18) AMENDMENT OF SECTION 5314.—Section 5314(a) (2) (relating to application of certain provisions to Puerto Rico) is amended by striking out “section 5001(a) (4)” and inserting in lieu thereof “section 5001(a) (10)”.

26 USC 5315.

(19) REPEAL OF SECTION 5315.—Section 5315 (relating to the status of certain distilled spirits on July 1, 1959) is repealed.

26 USC 5368.

(20) AMENDMENTS OF SECTION 5368.—

(A) The heading of section 5368 is amended to read as follows:

“SEC. 5368. GAUGING AND MARKING.”

(B) Section 5368(b) (relating to removal of wines) is amended to read as follows:

“(b) MARKING.—Wines shall be removed in such containers (including vessels, vehicles, and pipelines) bearing such marks and labels, evidencing compliance with this chapter, as the Secretary may by regulations prescribe.”

26 USC 5392.

(21) AMENDMENT OF SECTION 5392.—Section 5392(f) (defining own production) is amended by striking out “49 Stat. 990;”.

26 USC 5601.

(22) AMENDMENTS OF SECTION 5601.—Section 5601(b) (relating to presumptions in the case of criminal penalties) is amended to read as follows:

“(b) PRESUMPTION.—Whenever on trial for violation of subsection (a) (4) the defendant is shown to have been at the site or place where, and at the time when, the business of a distiller or rectifier was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).”

(23) AMENDMENTS OF SECTION 5685.—

(A) Section 5685(a) (relating to penalty for possession of devices for emitting gas, smoke, etc.) is amended by striking out “section 5848” and inserting in lieu thereof “section 5845”. 26 USC 5685.

(B) Section 5685(c) (relating to forfeiture of firearms, devices, etc.) is amended by striking out “section 5862” and inserting in lieu thereof “section 5872”.

(C) Section 5685(d) (relating to the definition of machine gun) is amended to read as follows:

“(d) DEFINITION OF MACHINE GUN.—As used in this section, the term ‘machine gun’ means a machinegun as defined in section 5845(b).”

(24) AMENDMENT OF SECTION 5701.—Section 5701(e) (relating to imported tobacco products, etc.) is amended by striking out “such articles” and inserting in lieu thereof “such articles, unless such import duties are imposed in lieu of internal revenue tax”. 26 USC 5701.

(25) AMENDMENTS OF SECTION 5703.—

(A) Section 5703(a) (2) (relating to transfer of liability for tobacco taxes) is amended by adding at the end thereof the following new sentence: “All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.” 26 USC 5703.

(B) The second sentence of section 5703(b) (relating to method of payment of tobacco taxes) is amended by striking out “, except that the taxes shall continue to be paid by stamp until the Secretary or his delegate provides, by regulations, for the payment of the taxes on the basis of a return”.

(C) Section 5703 is amended by striking out subsection (c) (relating to stamps to evidence tobacco taxes) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(26) AMENDMENTS OF SECTION 5704.—Subsections (c) and (d) of section 5704 (relating to exemptions from tobacco taxes) are each amended by inserting after “to a manufacturer of tobacco products or cigarette papers and tubes” the following: “or to the proprietor of an export warehouse”. 26 USC 5704.

(27) AMENDMENT OF SECTION 5712.—Section 5712 (relating to application for permit) is amended by striking out the last sentence. 26 USC 5712.

(28) AMENDMENTS OF SECTION 5723.—

(A) The heading of section 5723 is amended by striking out “NOTICES, AND STAMPS” and inserting in lieu thereof “AND NOTICES”. 26 USC 5723.

(B) Section 5723(b) (relating to marks, and so forth, on packages) is amended to read as follows:

“(b) MARKS, LABELS, AND NOTICES.—Every package of tobacco products or cigarette papers or tubes shall, before removal, bear the marks, labels, and notices, if any, that the Secretary by regulation prescribes.” Regulation.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 5054.—

26 USC 5676.

(A) Section 5676 (relating to beer stamp penalties) is repealed.

(B) The table of sections for part III of subchapter J of chapter 51 is amended by striking out the item relating to section 5676.

(2) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 5061.—

26 USC 5007.

(A) Section 5007(b) (1) is amended by striking out the second sentence.

26 USC 5026.

(B) Section 5026(b) is amended by striking out "Except as provided in subsection (a) (2), the taxes" and inserting in lieu thereof "The taxes".

26 USC 5043.

(C) Section 5043(b) is amended by striking out "Except as provided in subsection (a) (3), the taxes" and inserting in lieu thereof "The taxes".

26 USC 5662.

(D) Section 5662 is amended by striking out "stamp," each place it appears.

26 USC 5689.

(E) (i) Section 5689 (relating to penalty and forfeiture for tampering with a stamp machine) is repealed.

(ii) The table of sections for part IV of subchapter J of chapter 51 is amended by striking out the item relating to section 5689.

26 USC 5061.

(iii) Section 5061 is amended by striking out subsection (d).

(3) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 5142.—

26 USC 5104.

(A) (i) Section 5104 (relating to method of payment of tax on stills) is repealed.

(ii) The table of sections for subpart C of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5104.

26 USC 5111.

(B) Section 5111(a) is amended by striking out the second sentence.

26 USC 5121.

(C) Section 5121(a) is amended by striking out the second sentence.

26 USC 5144.

(D) (i) Section 5144 (relating to supply of stamps) is repealed.

(ii) The table of sections for subpart G of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5144.

26 USC 5148.

(E) Section 5148(3) is amended by striking out "penalties" and inserting in lieu thereof "penalties, authority for assessments".

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 5315.—
The table of sections for part III of subchapter E of chapter 51 is amended by striking out the item relating to section 5315.(5) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 5368.—
The item relating to section 5368 in the table of sections for part II of subchapter F of chapter 51 is amended to read as follows:

"Sec. 5368. Gauging and marking."

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 5601.—

- (A) Section 5105(b) (2) is amended by striking out “, 5601 (b) (1).” 26 USC 5105.
- (B) Section 5177(b) (2) is amended by striking out “5601 (b) (2).” and inserting in lieu thereof “5601(b).” 26 USC 5177.
- (C) Section 5179(b) (1) is amended by striking out “, 5601 (b) (1).” 26 USC 5179.
- (D) Section 5222(d) is amended by striking out “5601(b) (3), 5601(b) (4).” 26 USC 5222.
- (E) Section 5505(i) is amended by striking out “5601(b) (1).” 26 USC 5505.

(7) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 5723.—

- (A) Paragraphs (2) and (3) of section 5751(a) are each amended by striking out “notices, and stamps” and inserting in lieu thereof “and notices”. 26 USC 5751.

(B) (i) Section 5752 is amended to read as follows:

“SEC. 5752. RESTRICTIONS RELATING TO MARKS, LABELS, NOTICES, AND PACKAGES. 26 USC 5752.

“No person shall, with intent to defraud the United States, destroy, obliterate, or detach any mark, label, or notice prescribed or authorized, by this chapter or regulations thereunder, to appear on, or be affixed to, any package of tobacco products or cigarette papers or tubes, before such package is emptied.”

- (ii) Section 5762(a) is amended by striking out paragraphs (6), (7), (8), (9), (10), and (11) and inserting in lieu thereof the following: 26 USC 5762.

“(6) DESTROYING, OBLITERATING, OR DETACHING MARKS, LABELS, OR NOTICES BEFORE PACKAGES ARE EMPTIED.—Violates any provision of section 5752.”

- (iii) The item relating to section 5752 in the table of sections for subchapter E of chapter 52 is amended to read as follows:

“Sec. 5752. Restrictions relating to marks, labels, notices, and packages.”

- (C) (i) Section 5763(a) (2) is amended by striking out “notices, and stamps” and inserting in lieu thereof “and notices”. 26 USC 5763.

(ii) Section 5763(b) is amended by striking out “internal revenue stamps.”

(D) The item relating to section 5723 in the table of sections for subchapter C of chapter 52 is amended to read as follows:

“Sec. 5723. Packages, marks, labels, and notices.”

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

- (1) Section 5114(b) is amended by striking out “or Territory” each place it appears and by striking out “Territories.” 26 USC 5114.

(2) Section 5214(a) (2) is amended by striking out “or Territory” each place it appears. 26 USC 5214.

(3) Section 5272(b) is amended by striking out “and Territories”. 26 USC 5272.

(4) Section 5362(c) (9) is amended by striking out “and Territories”. 26 USC 5362.

(5) Section 5551(b) (2) is amended by striking out “Territory, or”. 26 USC 5551.

(6) Section 5685(a) is amended by striking out “Territory or”. 26 USC 5685.

26 USC 5005
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 1906. AMENDMENTS OF SUBTITLE F; PROCEDURE AND ADMINISTRATION.

(a) **IN GENERAL.**—

(1) **AMENDMENTS OF SECTION 6013.**—

26 USC 6013.

(A) Section 6013(b)(2)(C) (relating to petition to the Tax Court) is amended by striking out “of the United States”.

(B) The heading of section 6013(d) is amended to read as follows:

“(d) **SPECIAL RULES.**—”.

(C) Section 6013(d)(1) (relating to joint return after death of one spouse) is amended by striking out “and” at the end of subparagraph (A) and inserting in lieu thereof “or”, and by striking out “and” at the end of the subparagraph (B).

26 USC 6015.

(2) **AMENDMENT OF SECTION 6015.**—Section 6015 (relating to declaration of estimated tax by individuals) is amended by striking out subsection (j) (relating to an effective date provision).

26 USC 6037.

(3) **AMENDMENT OF SECTION 6037.**—Section 6037 (relating to returns of subchapter S corporations) is amended by striking out “section 1371(a)(2)” and inserting in lieu thereof “section 1371(b)”.

26 USC 6046.

(4) **AMENDMENT OF SECTION 6046.**—Section 6046(e) (relating to information as to organization of foreign corporation) is amended to read as follows:

“(e) **LIMITATION.**—No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a).”

26 USC 6051.

(5) **AMENDMENT OF SECTION 6051.**—Section 6051(a) (relating to information required to be furnished to employees) is amended by striking out “and” where it appears at the end of paragraph (6).

26 USC 6065.

(6) **AMENDMENTS OF SECTION 6065.**—Section 6065 (relating to verification of returns) is amended by striking out subsection (b) (relating to verification by oath), and by striking out in subsection (a) the following: “(a) **PENALTIES OF PERJURY.**—”.

26 USC 6105.

(7) **REPEAL OF SECTION 6105.**—Section 6105 (relating to compilation of data for certain excess profits tax cases) is repealed.

26 USC 6111.

(8) **AMENDMENT OF SECTION 6111.**—Section 6111 (relating to cross references), as redesignated by this Act, is amended to read as follows:

“SEC. 6111. CROSS REFERENCE.

Ante, p. 1686.

“For inspection of records, returns, etc., concerning gasoline or lubricating oils, see section 4102.”

26 USC 6152.

(9) **AMENDMENT OF SECTION 6152.**—Section 6152(a)(1) (relating to installment payments by corporations) is amended to read as follows:

26 USC 1.

“(1) **CORPORATIONS.**—A corporation subject to the taxes imposed by chapter 1 may elect to pay the unpaid amount of such taxes in two equal installments.”

(10) AMENDMENTS OF SECTION 6154.—

(A) Section 6154(c) (1) (B) (relating to definition of estimated tax) is amended— 26 USC 6154.

(i) by adding “and” after the comma at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

“(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation’s temporary estimated tax exemption for such year.”

(B) Section 6154(c) (2) (A) (ii) (relating to temporary estimated tax payments) is amended by striking out “clauses (ii) and (iii)” and inserting in lieu thereof “clause (ii)”.

(C) Section 6154(c) (2) (B) (relating to estimated tax) is amended by striking out the following:

“1968, 1969, 1970, 1971, and 1972-----	100 percent
1973 -----	80 percent
1974 -----	60 percent”.

(D) Section 6154(c) (relating to estimated tax) is amended by striking out paragraph (3) (relating to transitional exemption for taxable years beginning before 1972).

(11) AMENDMENTS OF SECTION 6157.—

(A) Section 6157 (relating to payment of Federal unemployment tax) is amended by striking out subsection (c) (relating to special rules for 1970 and 1971), and by redesignating subsection (d) as subsection (c). 26 USC 6157.

(B) Section 6157(a) is amended by striking out “subsections (c) and (d)” and inserting in lieu thereof “subsection (c)”.

(12) REPEAL OF SECTION 6162.—Section 6162 (relating to payment of tax on gain on liquidation of certain personal holding companies) is repealed. 26 USC 6162.

(13) AMENDMENT OF SECTION 6205.—Section 6205(a) (4) (relating to District of Columbia as employer) is amended by striking out “Commissioners of the District of Columbia and each agent designated by them” and inserting in lieu thereof “Mayor of the District of Columbia and each agent designated by him”. 26 USC 6205.

(14) AMENDMENT OF SECTION 6207.—Section 6207 (relating to cross references) is amended by striking out paragraph (7). 26 USC 6207.

(15) AMENDMENT OF SECTION 6213.—Section 6213(a) (relating to time for filing petition with the Tax Court) is amended by striking out “States of the Union and the District of Columbia” and inserting in lieu thereof “United States”. *Ante*, p. 1698.

(16) AMENDMENT OF SECTION 6215.—Section 6215(b) (5) (a cross reference) is amended by striking out “60 Stat. 48;”. 26 USC 6215.

(17) AMENDMENT OF SECTION 6302.—Section 6302(b) (relating to collection of certain excise taxes) is amended by striking out “sections 4501(a) or 4511 of chapter 37, or section 4701 or 4721 of chapter 39” and inserting in lieu thereof “section 4501(a) of chapter 37”. 26 USC 6302.

(18) REPEAL OF SECTION 6304.—Section 6304 (relating to a cross reference) is repealed. 26 USC 6304.

(19) AMENDMENT OF SECTION 6313.—Section 6313 (relating to fractional parts of a cent) is amended by striking out “not payable by stamp”. 26 USC 6313.

(20) AMENDMENTS OF SECTION 6326.—

26 USC 6326.

(A) Paragraph (2) of section 6326 (cross references) is amended by striking out "52 Stat. 851;".

(B) Paragraph (3) of section 6326 is amended by striking out "52 Stat. 867;".

(C) Paragraph (4) of section 6326 is amended by striking out "52 Stat. 867-877;".

(D) Paragraph (5) of section 6326 is amended by striking out "52 Stat. 938;".

26 USC 6365.

(21) AMENDMENT OF SECTION 6365.—Section 6365(b) (relating to definition of governor) is amended by striking out "Commissioner of the District of Columbia" and inserting in lieu thereof "Mayor of the District of Columbia".

26 USC 6412.

(22) AMENDMENT OF SECTION 6412.—Section 6412(a) (relating to floor stock refunds) is amended by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively.

(23) AMENDMENTS OF SECTION 6413.—

26 USC 6413.

(A) Section 6413(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(B) (i) Section 6413(c)(1) (relating to refunds of certain employment taxes) is amended to read as follows:

"(1) IN GENERAL.—If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 or section 3201, or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term 'wages' as used in this paragraph shall, for purposes of this paragraph, include 'compensation' as defined in section 3231(e)."

42 USC 430.

"Wages."

(ii) So much of section 6413(c)(2)(A) (relating to Federal employees) as follows "and the term 'wages' includes" is amended to read as follows: "for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee."

26 USC 6413
note.

(iii) The amendments made by clauses (i) and (ii) shall apply with respect to remuneration paid after December 31, 1976.

26 USC 6413.

(C) Section 6413(c)(2)(F) (relating to government employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(D) Section 6413(c)(3) (relating to special refunds) is amended by striking out "after 1967". 26 USC 6413.

(24) AMENDMENTS OF SECTION 6416.—

(A) Section 6416(a)(3) (relating to special rules for refund of overpayment of tax) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively. 26 USC 6416.

(B)(i) Section 6416(b)(2) (relating to overpayments of certain excise taxes), as amended by section 2108 of this Act, is amended by striking out subparagraphs (G), (H), (I), and (J), and by redesignating subparagraphs (F), (K), (L), (M), (R), (S), and (T) as subparagraphs (E), (F), (G), (H), (I), (J), and (K), respectively. *Post*, p. 1904.

(ii) The repeals made by clause (i) shall apply with respect to the use or resale for use of liquids after December 31, 1976. 26 USC 6416 note.

(25) REPEAL OF SECTION 6417.—Section 6417 (relating to coconut and palm oil) is repealed. 26 USC 6417.

(26) AMENDMENTS OF SECTION 6420.—

(A) Section 6420(b) (relating to time for filing refund claims on gasoline) is amended to read as follows: 26 USC 6420.

"(b) TIME FOR FILING CLAIMS; PERIOD COVERED.—Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A." 26 USC 1.

(B) Section 6420(e)(1) (relating to application of other laws) is amended by striking out "apply in respect" and inserting in lieu thereof "apply in respect".

(C)(i) Section 6420 is amended by striking out subsection (g) (relating to effective date) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(ii) Section 6420(a) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(D) Section 6420(g) (relating to income tax credit in lieu of gas tax refund), as redesignated by subparagraph (C)(i) of this paragraph, is amended by striking out "with respect to gasoline used after June 30, 1965," and "for gasoline used after June 30, 1965".

(27) AMENDMENTS OF SECTION 6421.—

(A)(i) Subsections (a) and (e)(3) of section 6421 (relating to nonhighway use of gasoline) are each amended by striking out "after June 30, 1970,". 26 USC 6421.

(ii) The amendments made by clause (i) shall only apply with respect to gasoline used as a fuel after June 30, 1970. 26 USC 6421 note.

(B) Section 6421(c) (relating to nonhighway use of gasoline) is amended to read as follows:

"(c) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person

not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

26 USC 1.

"(2) EXCEPTION.—If \$1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed."

26 USC 6421.

(C) Section 6421(h) (relating to effective dates) is amended by striking out "after June 30, 1956, and".

(D) Section 6421(i) (relating to income tax credit in lieu of refund) is amended—

(i) by striking out, in paragraph (1), "with respect to gasoline used after June 30, 1965,"

(ii) by striking out, in paragraph (2), "subsection (c) (3) (B)" and inserting in lieu thereof "subsection (c) (2)", and

(iii) by striking out, in paragraph (3), "for gasoline used after June 30, 1965."

26 USC 6422.

(28) AMENDMENTS OF SECTION 6422.—

(A) Paragraph (9) of section 6422 (relating to cross references), as redesignated by section 1901(b)(36)(B), is amended by striking out "60 Stat. 48;"

(B) Paragraph (11) of section 6422, as so redesignated, is amended by striking out "47 Stat. 1516;"

26 USC 6423.

(29) AMENDMENTS OF SECTION 6423.—

(A) Section 6423(b) (relating to filing of refund claim in case of alcohol and tobacco taxes) is amended to read as follows:

Regulations.

"(b) FILING OF CLAIMS.—No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim."

(B) Section 6423 is amended by striking out subsection (c) (relating to suits barred on April 30, 1958) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(C) Section 6423(c) (relating to application of section), as redesignated by subparagraph (B) of this paragraph, is amended by adding "and" at the end of paragraph (1), by striking out "and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

26 USC 6424.

(30) AMENDMENTS OF SECTION 6424.—

(A) The last sentence of section 6424(b)(1) (relating to refund claims with respect to lubricating oil) is amended by striking out "except that a person's first taxable year beginning after December 31, 1965, shall include the period after December 31, 1965, and before the beginning of such first taxable year".

(B) Section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out subsection (f) (relating to effective date of section), and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively. 26 USC 6424.

(31) AMENDMENTS OF SECTION 6427.—

(A) Subsections (a), (b), and (c) of section 6427 (relating to fuels not used for taxable purposes) are each amended by striking out “, after June 30, 1970,”. 26 USC 6427.

(B) The amendments made by subparagraph (A) shall apply only with respect to fuel used or resold after June 30, 1970. 26 USC 6427 note.

(32) AMENDMENTS OF SECTION 6504.—

(A) Section 6504 (relating to cross references) is amended by striking out paragraphs (13) and (14) and inserting in lieu thereof: 26 USC 6504.

“(13) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), 6424 (relating to lubricating oil not used in highway motor vehicles), or 6427 (relating to fuels not used for taxable purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, 6421, 6424, or 6427, see section 6206.”

(B) Section 6504, as amended by this Act, is further amended by redesignating paragraphs (2), (3), (4), (5), (9), (10), (11), (12), (13), and (15) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10), respectively.

(33) AMENDMENTS OF SECTION 6511.—

(A) Section 6511(d)(2)(A)(ii) (relating to net operating loss carryback) is amended by striking out “September 1, 1959, or” and by striking out “, whichever is the later”. 26 USC 6511.

(B) Section 6511(d)(5) is amended by striking out “the later of the following dates: (A)”, and by striking out “, or (B) December 31, 1965”.

(34) AMENDMENT OF SECTION 6601.—Section 6601(h) (relating to interest on estimated tax payments) is amended by striking out “(or section 59 of the Internal Revenue Code of 1939)”. 26 USC 6601. 53 Stat. 32.

(35) AMENDMENT OF SECTION 6654.—Section 6654 (relating to payment of estimated income tax) is amended by striking out subsection (h) (relating to applicability of section). 26 USC 6654.

(36) AMENDMENT OF SECTION 6802.—Section 6802(2) (relating to supply and distribution of stamps) is amended by striking out the semicolon at the end and inserting in lieu thereof a period. 26 USC 6802.

(37) AMENDMENT OF SECTION 6803.—Section 6803 (relating to accounting and safeguarding) is amended to read as follows: 26 USC 6803.

“SEC. 6803. ACCOUNTING AND SAFEGUARDING.

“(a) BOND.—In cases coming within the provisions of paragraph (2) of section 6802, the Secretary may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

“(b) REGULATIONS.—The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraph (2) of section 6802.”

26 USC 6863.

(38) AMENDMENT OF SECTION 6863.—Section 6863(b)(3) (relating to stay of sale of seized property pending Tax Court decision) is amended by striking out subparagraph (C) (relating to effective date).

26 USC 7012.

(39) AMENDMENT OF SECTION 7012.—Section 7012 (relating to cross references), as amended by section 1904(b)(8)(C) of this Act, is amended to read as follows:

“SEC. 7012. CROSS REFERENCES.

“(1) For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5861.

“(2) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

“(3) For provisions relating to registration in relation to the production or importation of gasoline, see section 4101.

“(4) For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.

“(5) For penalty for failure to register, see section 7272.

“(6) For other penalties for failure to register with respect to wagering, see section 7262.”

26 USC 7103.

(40) AMENDMENT OF SECTION 7103.—Section 7103 (relating to cross references regarding bonds) is amended by striking out subsection (d).

26 USC 7271.

(41) AMENDMENTS OF SECTION 7271.—Section 7271 (relating to penalties for offenses concerning stamps) is amended by striking out paragraph (2), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

26 USC 7272.

(42) AMENDMENT OF SECTION 7272.—Section 7272(b) (relating to cross references) is amended by striking out “4722, 4753,”.

26 USC 7326.

(43) AMENDMENTS OF SECTION 7326.—Section 7326 (relating to disposal of forfeited property) is amended—

(A) by striking out “section 5862(b)” and inserting in lieu thereof “section 5872(b)”, and

(B) by redesignating subsection (c) as subsection (b).

26 USC 7422.

(44) AMENDMENTS OF SECTION 7422.—Section 7422(c) (relating to suits against collection officers) is amended by striking out “instituted after June 15, 1942,” and by striking out “where the petition to the Tax Court was filed after such date”.

26 USC 7428.

(45) AMENDMENTS OF SECTION 7428.—

(A) Paragraph (1) of section 7428 (cross references), as redesignated by this Act, is amended by striking out “52 Stat. 851;”.

(B) Paragraph (2) of such section 7428 is amended by striking out “52 Stat. 867;”.

(C) Paragraph (3) of such section 7428 is amended by striking out “52 Stat. 876–877;”.

(D) Paragraph (4) of such section 7428 is amended by striking out “52 Stat. 938;”.

26 USC 7448.

(46) AMENDMENTS OF SECTION 7448.—

(A) Subsection (a)(6) of section 7448 (relating to annuities to widows and dependent children of Tax Court judges) is amended—

(i) by striking out “The term ‘widow’ means a surviving wife of” and inserting in lieu thereof “The term ‘surviving spouse’ means a surviving spouse of”; and

(ii) by striking out “the mother of issue” and inserting in lieu thereof “a parent of issue”.

(B) Section 7448(h) is amended—

(i) by striking out “surviving widow or widower” and inserting in lieu thereof “surviving spouse”;

(ii) by striking out “such widow” each place it appears and inserting in lieu thereof “such surviving spouse”;

(iii) by striking out “a widow” each place it appears and inserting in lieu thereof “a surviving spouse”;

(iv) by striking out “widow’s” each place it appears and inserting in lieu thereof “surviving spouse’s”; and

(v) by striking out “surviving her” and inserting in lieu thereof “surviving such spouse”.

(C) Sections 7448 (h) and (o) are each amended by striking out “she” and inserting in lieu thereof “such spouse”. 26 USC 7448.

(D) Section 7448(o) is amended by striking out “her” and inserting in lieu thereof “such spouse’s”.

(E) Sections 7448 (d), (j), (m), (n), (o), and (q) are each amended by striking out “widow” each place it appears and inserting in lieu thereof “surviving spouse”.

(F) The section heading for section 7448 is amended by striking out “WIDOWS” and inserting in lieu thereof “SURVIVING SPOUSES”.

(47) AMENDMENTS OF SECTION 7471.—

(A) Subsection (a) of section 7471 (relating to Tax Court employees) is amended by striking out “is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1949 (63 Stat. 954; 5 U.S.C. chapter 21), as amended, to fix the compensation of,” and inserting in lieu thereof “is authorized to appoint, in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and to fix the basic pay of, in accordance with chapter 51 and subchapter III of chapter 53 of such title,”. 26 USC 7471.

5 USC 101 *et seq.*
5 USC 5101, 5331.

(B) Subsection (b) of section 7471 is amended by striking out “as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C. chapter 16).” and inserting in lieu thereof “as provided in chapter 57 of title 5, United States Code.”

5 USC 5701.

(48) AMENDMENT OF SECTION 7476.—Section 7476(a) (relating to declaratory judgments) is amended by striking out so much thereof as follows paragraph (2)(B) and inserting in lieu thereof the following: 26 USC 7476.

“upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.”

(49) AMENDMENT OF SECTION 7502.—Section 7502(b) (relating to timely mailing treated as timely filing and paying) is amended by striking out “United State Post Office” and inserting in lieu thereof “United States Postal Service”. 26 USC 7502.

(50) AMENDMENTS OF SECTION 7507.—Paragraphs (2) and (3) of section 7507(c) (relating to insolvent banks) are each amended by striking out “after May 28, 1938,”. 26 USC 7507.

(51) AMENDMENTS OF SECTION 7508.—

(A) The heading of section 7508 (relating to time for performing certain acts) is amended by striking out “BY REASON OF WAR” and inserting in lieu thereof “BY REASON OF SERVICE IN COMBAT ZONE”. 26 USC 7508.

26 USC 7508.

(B) Section 7508(a) (relating to time to be disregarded) is amended by striking out "States of the Union and the District of Columbia" each place it appears and inserting in lieu thereof "United States".

26 USC 7509.

(52) AMENDMENTS OF SECTION 7509.—Section 7509 (relating to expenditures incurred by the Post Office Department) is amended—

(A) in the section heading, by striking out "POST OFFICE DEPARTMENT" and inserting in lieu thereof "UNITED STATES POSTAL SERVICE";

(B) by striking out "Post Office Department" each place it appears and inserting in lieu thereof "United States Postal Service";

(C) by striking out "such Department" and inserting in lieu thereof "such Service"; and

(D) by striking out ", together with the receipts required to be deposited under section 6803(a),".

Ante, p. 1829.

26 USC 7621.

(53) AMENDMENT OF SECTION 7621.—Section 7621(b) (relating to boundaries of internal revenue districts) is amended to read as follows:

"(b) BOUNDARIES.—For the purpose mentioned in subsection (a), the President may subdivide any State or the District of Columbia, or may unite into one district two or more States."

Repeal.

26 USC 7641.

(54) REPEAL OF SECTION 7641.—Subchapter C of chapter 78 (relating to supervision of operations of certain manufacturers) is repealed.

26 USC 7652.

(55) AMENDMENTS OF SECTION 7652.—Section 7652(b) (3) (relating to disposition of internal revenue collections) is amended—

(A) by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(B) by striking out "approved emergency relief purposes and essential public projects as provided in subparagraph (B)" and inserting in lieu thereof "emergency relief purposes and essential public projects, with the prior approval of the President or his designated representative", and

(C) by striking out "including payments under subparagraph (B),".

26 USC 7653.

(56) AMENDMENT OF SECTION 7653.—Section 7653(d) (a cross reference) is amended by striking out "c. 512, 64 Stat. 392, section 30;".

26 USC 7701.

(57) AMENDMENTS OF SECTION 7701.—

(A) Section 7701(a) (11) (relating to definitions of Secretary) is amended to read as follows:

"(11) SECRETARY OF THE TREASURY AND SECRETARY.—

"(A) SECRETARY OF THE TREASURY.—The term 'Secretary of the Treasury' means the Secretary of the Treasury, personally, and shall not include any delegate of his.

"(B) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or his delegate."

(B) Section 7701(a) (12) (A) (relating to definition of Secretary or his delegate) is amended to read as follows:

Definitions.

"(A) IN GENERAL.—The term 'or his delegate'—

"(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary

of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

“(ii) when used with reference to any other official of the United States, shall be similarly construed.”

(58) AMENDMENT OF SECTION 7803.—Section 7803 (relating to other personnel) is amended by redesignating subsection (d) as subsection (c). 26 USC 7803.

(59) AMENDMENT OF SECTION 7809.—Section 7809(a) (relating to deposit of collections) is amended by striking out “4735, 4762”. 26 USC 7809.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6105.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6105. 26 USC 6101.

(2) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6111.—The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows: 26 USC 6111.

“Sec. 6111. Cross reference.”

(3) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 6154.—

(A) Paragraph (1) (B) of section 6655(e) is amended: 26 USC 6655.

(i) by adding “and” at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

“(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation’s temporary estimated tax exemption for such year.”

(B) Paragraph (2) (B) of section 6655(e) is amended by striking out “clauses (ii) and (iii)” and inserting in lieu thereof “clause (ii)”.

(C) (i) Section 6655(e) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(ii) Section 243(b) (3) (C) (iv), as redesignated by section 1901(b) (20) (A) of this Act, is amended by striking out “sections 6154(c) (2) and (3)” and inserting in lieu thereof “section 6154(c) (2)”, and by striking out “sections 6655(e) (2) and (3)” and inserting in lieu thereof “section 6655(e) (2)”. *Ante*, p. 1797.

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6162.—The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6162.

(5) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6304.—The table of sections for subchapter A of chapter 64 is amended by striking out the item relating to section 6304.

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 6416.—

(A) Subparagraph (A) of section 6420(c) (3) is amended to read as follows: 26 USC 6420.

“(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator; except that if such use is by any person

other than the owner, tenant, or operator of such farm, then for purposes of this subparagraph, in applying subsection (a) to this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 issued shall be treated as the user and the ultimate purchaser of such gasoline or liquid;”.

26 USC 4041.

26 USC 6420
note.

(B) The amendments made by subparagraph (A) shall apply with respect to the use of liquids after December 31, 1970.

Ante, p. 1827.

(7) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6417.—The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6417.

(8) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6420.—Section 39(a)(1) is amended by striking out “section 6420(h)” and inserting in lieu thereof “section 6420(g)”.

26 USC 39.

Ante, p. 1829.

(9) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6424.—Section 39(a)(3) is amended by striking out “section 6424(g)” and inserting in lieu thereof “section 6424(f)”.

(10) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7448.—The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended to read as follows:

“Sec. 7448. Annuities of surviving spouses and dependent children.”.

26 USC 7508.

(11) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7508.—The item relating to section 7508 in the table of sections for chapter 77 is amended to read as follows:

“Sec. 7508. Time for performing certain acts postponed by reason of service in combat zone.”.

26 USC 7509.

(12) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7509.—The item relating to section 7509 in the table of sections for chapter 77 is amended to read as follows:

“Sec. 7509. Expenditures incurred by the United States Postal Service.”.

Ante, p. 1832.

26 USC 1 *et seq.*

(13) AMENDMENT CONFORMING TO REPEAL OF SECTION 7641.—The table of subchapters for chapter 78 is amended by striking out the item relating to subchapter C.

(A) The Internal Revenue Code of 1954, as amended by this Act, is amended by striking out “Secretary or his delegate” each place it appears and inserting in lieu thereof “Secretary”.

26 USC 4293,
4483, 5551,
7801, 7802,
9006, 9007.

(B) The following provisions are each amended by striking out “Secretary” each place it appears and inserting in lieu thereof “Secretary of the Treasury”: sections 4293, 4483 (b), 5551, 7801(b), 7802(a), 9006(a), 9006(b), and 9007(d).

26 USC 3121,
3303, 3304,
3305, 3306,
9005, 9007,
9010, 9012.
26 USC 31.
26 USC 3304.

(C) The following provisions are each amended by striking out “to the Secretary” each place it appears and inserting in lieu thereof “to the Secretary of the Treasury”: sections 3121 (b) (12) (B), 3303 (b), 3304 (a) (3), 3304 (c), 3305 (j), 3306 (c) (12) (B), 9005 (a), 9007 (b), 9010 (b), and 9012 (e) (3).

(D) Section 31(b)(1) is amended by striking out “(or his delegate)”.

(E) The last sentence of section 3304(c) is amended by striking out “the Secretary shall” and inserting in lieu thereof “the Secretary of Labor shall”.

(F) Section 3310(d)(2) is amended by striking out “the Secretary’s action” each place it appears and inserting in lieu thereof “the Secretary of Labor’s action”. 26 USC 3310.

(G) Section 3221(a) and 3221(c) are each amended by striking out “of the Treasury” each place it appears. 26 USC 3221.

(H) Section 3310(e) is amended by striking out “of the Secretary” and inserting in lieu thereof “of the Secretary of Labor”. 26 USC 3310.

(I) Section 4412(c) is amended by striking out “he or his delegate” and inserting in lieu thereof “the Secretary”. 26 USC 4412.

(J) Section 5845(f) is amended by striking out “of the Treasury or his delegate”. 26 USC 5845.

(K) Section 6402(b) is amended by striking out “(or his delegate)”. 26 USC 6402.

(L) Section 7458 is amended by striking out “nor his delegate”. 26 USC 7458.

(M) Section 7514 is amended by striking out “functions of the Secretary” and inserting in lieu thereof “functions of the Secretary of the Treasury”. 26 USC 7514.

(c) AMENDMENTS TO SECTIONS REFERRING TO TERRITORIES.—

(1) Section 6871(a) is amended by striking out “or Territory”. 26 USC 6871.

(2) Section 7622(b) is amended by striking out “, Territory,”. 26 USC 7622.

(3) Section 7701(a)(4) is amended by striking out “or Territory”. 26 USC 7701.

(d) EFFECTIVE DATE.—

26 USC 6013
note.

(1) GENERAL RULE.—Except as otherwise expressly provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

(2) AMENDMENTS RELATING TO INCOME TAX.—The amendments made by this section, when relating to a tax imposed by chapter 1 or chapter 2 of the Internal Revenue Code of 1954, shall take effect with respect to taxable years beginning after December 31, 1976. 26 USC 1, 1401.

SEC. 1907. AMENDMENTS OF SUBTITLE G; THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 8001.—Section 8001 (relating to creation of the Joint Committee) is amended by striking out “Joint Committee on Internal Revenue Taxation” and inserting in lieu thereof “Joint Committee on Taxation”. 26 USC 8001.

(2) AMENDMENT OF SECTION 8004.—Section 8004 (relating to compensation of staff) is amended by striking out “compensation of a clerk” and inserting in lieu thereof “compensation of the Chief of Staff of the Joint Committee”. 26 USC 8004.

(3) AMENDMENT OF SECTION 8021.—Section 8021(d) (relating to authority to make expenditures) is amended to read as follows: 26 USC 8021.

“(d) TO MAKE EXPENDITURES.—The Joint Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable.”

(4) AMENDMENT OF SECTION 8023.—Section 8023(c) (relating to reorganization plans) is amended to read as follows: 26 USC 8023.

“(c) APPLICATION OF SUBSECTIONS (a) AND (b).—Subsections (a) and (b) shall be applied in accordance with their provisions without regard to any reorganization plan becoming effective on, before, or after the date of the enactment of this subsection.”

26 USC 8001
note.

(5) All references in any other statute, or in any rule, regulation, or order, to the Joint Committee on Internal Revenue Taxation shall be considered to be made to the Joint Committee on Taxation.

(b) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 8001.—

(1) The heading of subtitle G is amended by striking out “Internal Revenue”.

(2) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle G and inserting in lieu thereof the following:

“SUBTITLE G. The Joint Committee on Taxation.”.

26 USC 8001
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

26 USC 1 note.

SEC. 1908. EFFECTIVE DATE OF CERTAIN DEFINITIONS AND DESIGNATIONS

For purposes of any amendment made by any provision of this Act (other than this title)—

(1) which contains a term the meaning of which is defined in or modified by any provision of this title, and

(2) which has an effective date earlier than the effective date of the provision of this title defining or modifying such term, that definition or modification shall be considered to take effect as of such earlier effective date.

Subtitle B—Amendments of Code Provisions With Limited Current Application; Repeals and Savings Provisions

SEC. 1951. PROVISIONS OF SUBTITLE A.

(a) REFERENCES TO INTERNAL REVENUE CODE.—Except as otherwise expressly provided, whenever in this section a reference is made to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(b) AMENDMENTS.—

(1) AMENDMENT OF SECTION 72.—

26 USC 1.

26 USC 72.

(A) REPEAL.—Section 72 (relating to annuities) is amended by striking out subsection (i) (relating to joint and survivor annuities where first annuitant died in 1951, 1952, or 1953).

26 USC 72 note.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if the provisions of section 72(i) applied to amounts received in taxable years beginning before January 1, 1977, under an annuity contract, then amounts received under such contract on or after such date shall be treated as if such provisions were not repealed.

26 USC 108.

(2) AMENDMENTS OF SECTION 108.—

(A) REPEAL.—Section 108 (relating to income from discharge of indebtedness) is amended by striking out subsection (b) (relating to certain railroad corporations) and by striking out of subsection (a) the following: “(a) SPECIAL RULE OF EXCLUSION.—”.

(B) SAVINGS PROVISION.—If any discharge, cancellation, or modification of indebtedness of a railroad corporation occurs in a taxable year beginning after December 31, 1976, pursuant to an order of a court in a proceeding referred to in section 108(b) (A) or (B) which commenced before January 1, 1960, then, notwithstanding the amendments made by subparagraph (A), the provisions of subsection (b) of section 108 shall be considered as not repealed with respect to such discharge, cancellation, or modification of indebtedness. 26 USC 108 note.

(3) AMENDMENTS OF SECTION 164.—

(A) REPEAL.—Section 164 (relating to taxes) is amended by striking out subsection (f) (relating to payments for municipal services in atomic energy communities) and by redesignating subsection (g) as subsection (f). 26 USC 164.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any amount paid or accrued in a taxable year beginning after December 31, 1976, to the Atomic Energy Commission or its successors for municipal-type services shall be allowed as a deduction under section 164 if such amount would have been deductible by reason of section 164(f) (as in effect for a taxable year ending on December 31, 1976) and if the amount is paid or accrued with respect to real property in a community (within the meaning of section 21 b. of the Atomic Energy Community Act of 1955 (42 U.S.C. 2304 (b))) in which the Commission on December 31, 1976, was rendering municipal-type services for which it received compensation from the owners of property within such community. 26 USC 164 note.

(4) REPEAL OF SECTION 168.—

(A) REPEAL.—Section 168 (relating to amortization of emergency facilities) is repealed. 26 USC 168.

(B) SAVINGS PROVISION.—Notwithstanding the repeal made by subparagraph (A), if a certificate was issued before January 1, 1960, with respect to an emergency facility which is or has been placed in service before the date of the enactment of this Act, the provisions of section 168 shall not, with respect to such facility, be considered repealed. The benefit of deductions by reason of the preceding sentence shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary in accordance with regulations prescribed under section 642(f). 26 USC 168 note.

(5) AMENDMENT OF SECTION 171.—

(A) REPEAL.—

(i) Section 171(b)(1)(B) (relating to amount of bond premium) is amended by striking out clause (iii) (relating to certain bonds acquired before 1958). 26 USC 171.

(ii) Section 171(b)(1)(B)(i) is amended by striking out “clause (ii) or (iii) applies,” and inserting in lieu thereof “clause (ii) applies, or”, and by inserting “and” at the end thereof.

(iii) Section 171(b)(1)(B)(ii) is amended by striking out “. or” and inserting “, and” in lieu thereof.

(iv) The second sentence in section 171(b)(2) is amended by striking out “or (iii)”.

26 USC 171
note.

(B) SAVINGS PROVISION.—Notwithstanding the amendments made by subparagraph (A), in the case of a bond the interest on which is not excludable from gross income—

(i) which was issued after January 22, 1951, with a call date not more than 3 years after the date of such issue, and

(ii) which was acquired by the taxpayer after January 22, 1954, and before January 1, 1958, the bond premium for a taxable year beginning after December 31, 1975, shall not be determined under section 171(b) (1)(B)(i) but shall be determined with reference to the amount payable on maturity, and if the bond is called before its maturity, the bond premium for the year in which the bond is called shall be determined in accordance with the provisions of section 171(b) (2).

26 USC 333.

(6) AMENDMENT OF SECTION 333.—

(A) REPEAL.—Section 333 (relating to election as to recognition of gain in certain liquidations) is amended by striking out subsection (g) (relating to the liquidation of certain personal holding companies).

26 USC 333
note.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if any corporation meets all the requirements of section 333(g) (2) (B), as in effect before its repeal by this Act, the liquidation of such corporation shall be treated as if paragraphs (2), (3), and (4) of section 333(g) had not been repealed.

26 USC 333
note.

(C) PHASE-IN OF 12-MONTH HOLDING PERIOD REQUIREMENT.—For purposes of subparagraph (B), the period for holding of stock specified in section 333(g) (2) (A) (ii), as in effect before such repeal, shall—

(i) in the case of taxable years beginning in 1977, be considered to be “9 months”; and

(ii) in the case of taxable years beginning after December 31, 1977, be considered to be “1 year”.

26 USC 453.

(7) AMENDMENT OF SECTION 453.—

(A) REPEAL.—Section 453(b) (2) (relating to limitation on use of installment sales method) is amended to read as follows:

“(2) LIMITATION.—Paragraph (1) shall apply only if in the taxable year of the sale or other disposition—

“(A) there are no payments, or

“(B) the payments (exclusive of evidences of indebtedness of the purchaser) do not exceed 30 percent of the selling price.”.

26 USC 453
note.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), in the case of installment payments received during taxable years beginning after December 31, 1976, on account of a sale or other disposition made during a taxable year beginning before January 1, 1954, subsection (b) (1) of section 453 (relating to sales of realty and casual sales of personalty) shall apply only if the income was (by reason of section 44(b) of the Internal Revenue Code of 1939) returnable on the basis and in the manner prescribed in section 44(a) of such Code.

53 Stat. 24.

(8) AMENDMENTS OF SECTION 512.—

(A) REPEAL.—Section 512(b) (relating to unrelated business taxable income) is amended by striking out paragraphs (13) and (14) and by redesignating paragraphs (15), (16), and (17) as paragraphs (13), (14), and (15), respectively. 26 USC 512.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), income received in a taxable year beginning after December 31, 1975, shall be excluded from gross income in determining unrelated business taxable income, if such income would have been excluded by paragraph (13) or (14) of section 512(b) if received in a taxable year beginning before such date. Any deductions directly connected with income excluded under the preceding sentence in determining unrelated business taxable income shall also be excluded for such purpose. 26 USC 512 note.

(9) AMENDMENT OF SECTION 545.—

(A) REPEAL.—Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (9) (relating to deductions on account of certain liens in favor of the United States). 26 USC 545.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if any amount was deducted under paragraph (9) of section 545(b) in a taxable year beginning before January 1, 1977, on account of a lien which is satisfied or released in a taxable year beginning on or after such date, the amount so deducted shall be included in income, for purposes of section 545, as provided in the second sentence of such paragraph. Shareholders of any corporation which has amounts included in its income by reason of the preceding sentence may elect to compute the income tax on dividends attributable to amounts so included as provided in the third sentence of such paragraph. 26 USC 545 note.

(10) AMENDMENTS OF SECTION 691.—

(A) REPEAL.—Section 691 (relating to income in respect of decedents) is amended by striking out subsection (e) (relating to certain installment obligations transmitted at death) and by redesignating subsection (f) as subsection (e). 26 USC 691.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any election made under section 691(e) to have subsection (a) (4) of such section apply in the case of an installment obligation shall continue to be effective with respect to taxable years beginning after December 31, 1976. Section 691(c) shall not apply in respect of any amount included in gross income by reason of the preceding sentence. The liability under bond filed under section 44(d) of the Internal Revenue Code of 1939 (or corresponding provisions of prior law) in respect of which such an election applies is hereby released with respect to taxable years to which such election applies. 26 USC 691 note.

(11) AMENDMENTS OF SECTION 817.—

(A) REPEAL.—Section 817 is amended by striking out subsection (d) (relating to certain gains occurring before 1959). 26 USC 817.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any gain in a taxable year beginning after December 31, 1976, from any sale or other disposition of property prior to January 1, 1959, would be excluded or not taken into 26 USC 817 note.

Ante, p. 1839.

account for purposes of part 1 of subchapter I. of chapter 1 if subsection (d) of section 817 of such Code were still in effect for such taxable year, such gain shall be excluded for purposes of such part.

(12) REPEAL OF SECTION 1347.—

26 USC 1347.

(A) REPEAL.—Section 1347 (relating to certain claims filed against the United States before January 1, 1958) is repealed.

26 USC 1347
note.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if amounts received in a taxable year beginning after December 31, 1976, would have been subject to the provisions of section 1347 if received in a taxable year beginning before such date, the tax imposed by section 1 attributable to such receipt shall be computed as if section 1347 had not been repealed.

(13) REPEAL OF SECTION 1471.—

26 USC 1471.

(A) REPEAL.—Subchapter A of chapter 4 (relating to recovery of excessive profits on certain Government contracts) is repealed.

26 USC 1471
note.

(B) SAVINGS PROVISION.—If the amount of profit required to be paid into the Treasury under section 2382 or 7300 of title 10, United States Code, is not voluntarily paid, the Secretary of the Treasury or his delegate shall collect the same under the methods employed to collect taxes under subtitle A. All provisions of law (including penalties) applicable with respect to such taxes and not inconsistent with section 2382 or 7300 of title 10 of such Code, shall apply with respect to the assessment, collection, or payment of excess profits to the Treasury as provided in the preceding sentence, and to refunds by the Treasury of overpayments of excess profits into the Treasury.

(14) AMENDMENT OF SECTION 1481.—

26 USC 1481.

(A) REPEAL.—Section 1481 (relating to mitigation of effect of renegotiation of Government contracts) is amended by striking out subsection (d) (relating to renegotiation for years prior to 1954).

26 USC 1481
note.

(B) SAVINGS PROVISION.—If, during a taxable year beginning after December 31, 1976, a recovery of excessive profits through renegotiation which relates to profits of a taxable year subject to the Internal Revenue Code of 1939, the adjustments in respect to such renegotiation shall be made under section 3806 of such Code.

53 Stat. 1.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

26 USC 1017.

(1) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 108.—Section 1017 is amended by striking out “section 108(a)” each time it appears therein and inserting in lieu thereof “section 108”.

26 USC 1238.

(2) AMENDMENTS CONFORMING TO REPEAL OF SECTION 168.—

(A) Section 1238 is amended by striking out “(relating to amortization deduction of emergency facilities)” and inserting in lieu thereof “(as in effect before its repeal by the Tax Reform Act of 1976)”.

Ante, p. 1520.
26 USC 642,
1082.

(B) Sections 642(f) and 1082(a) (2) (B) are each amended by striking out “168.”

Ante, p. 1837.
26 USC 1245,
1250.

(C) Sections 1245(a) (2) and 1250(b) (3) are each amended by striking out “168,” each place it appears and inserting in lieu thereof “168 (as in effect before its repeal by the Tax Reform Act of 1976).”

(D) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 168.

Ante, p. 1837.

(3) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1347.—

(A) Section 5(b) is amended by striking out paragraph (5) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

26 USC 5.

(B) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1347.

Ante, p. 1840.

(C) The heading of part VI of subchapter Q of chapter 1 is amended to read as follows:

26 USC 1331.

“PART VI—MAXIMUM RATE ON PERSONAL SERVICE INCOME.”

(D) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part VI and inserting in lieu thereof the following:

“Part VI. Maximum rate on personal service income.”

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1471.—

The table of subchapters for chapter 4 is amended by striking out the item relating to subchapter A.

(d) EFFECTIVE DATE.—Except as otherwise expressly provided, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.

26 USC 72 note.

SEC. 1952. PROVISIONS OF SUBCHAPTER D OF CHAPTER 39; COTTON FUTURES.

United States
Cotton Futures
Act.
7 USC 15b.

(a) SHORT TITLE.—This section may be cited as the “United States Cotton Futures Act”.

(b) REPEAL OF TAX ON COTTON FUTURES.—Subchapter D of chapter 39 (relating to tax on cotton futures) is repealed.

26 USC 4851.

(c) DEFINITIONS.—For purposes of this section—

(1) COTTON FUTURES CONTRACT.—The term “cotton futures contract” means any contract of sale of cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business which has been designated a “contract market” by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act and the term “contract of sale” as so used shall be held to include sales, agreements of sale, and agreements to sell.

7 USC 1.

(2) FUTURE DELIVERY.—The term “future delivery” shall not include any cash sale of cotton for deferred shipment or delivery.

(3) PERSON.—The term “person” includes an individual, trust, estate, partnership, association, company, or corporation.

(4) SECRETARY.—The term “Secretary” means the Secretary of Agriculture of the United States.

(5) STANDARDS.—The term “standards” means the official cotton standards of the United States established by the Secretary pursuant to the United States Cotton Standards Act, as amended.

(d) BONA FIDE SPOT MARKETS AND COMMERCIAL DIFFERENCES.—

(1) DEFINITION.—For purposes of this section, the only markets which shall be considered bona fide spot markets shall be those which the Secretary shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

Rules and
regulations.

(2) DETERMINATION.—In determining, pursuant to the provisions of this section, what markets are bona fide spot markets, the Secretary is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary; except that if there are not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary, to enable him to designate at least five spot markets in accordance with subsection (f) (3), he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the market selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to subsection (f) (1) and (2) shall be determined in compliance with such rules and regulations. It shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

(3) WITHHOLDING INFORMATION.—Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under paragraph (2) of this subsection, or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than \$500.

(e) FORM AND VALIDITY OF COTTON FUTURES CONTRACTS.—Each cotton futures contract shall be a basis grade contract, or a tendered grade contract, or a specific grade contract as specified in subsections (f), (g), or (h) and shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. No cotton futures contract which does not conform to such requirements shall be enforceable by, or on behalf of, any party to such contract or his privies.

(f) BASIS GRADE CONTRACTS.—

(1) CONDITIONS.—Each basis grade cotton futures contract shall comply with each of the following conditions:

(A) CONFORMITY WITH REGULATIONS.—Conform to the regulations made pursuant to this section.

(B) SPECIFICATION OF GRADE, PRICE, AND DATES OF SALE AND SETTLEMENT.—Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary, except grades prohibited from being delivered on a contract made under this

subsection by subparagraph (E), the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled; except that middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(C) PROVISION FOR DELIVERY OF STANDARD GRADES ONLY.—Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E) and no other grade or grades.

(D) PROVISION FOR SETTLEMENT ON BASIS OF ACTUAL COMMERCIAL DIFFERENCES.—Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(E) PROHIBITION OF DELIVERY OF INFERIOR COTTON.—Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed", shall not be delivered on, under, or in settlement of such contract.

(F) PROVISIONS FOR TENDER IN FULL, NOTICE OF DELIVERY DATE, AND CERTIFICATE OF GRADE.—Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(G) PROVISION FOR TENDER AND SETTLEMENT IN ACCORDANCE WITH GOVERNMENT CLASSIFICATION.—Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, col-

Regulations.

lected, and paid as provided in such regulations. The Secretary is authorized to prescribe regulations for carrying out the purposes of this subparagraph and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this subparagraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as *prima facie* evidence of the true classification of the cotton involved.

(2) INCORPORATION OF CONDITIONS IN CONTRACTS.—The provisions of paragraphs (1) (C), (D), (E), (F), and (G) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandums evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (f)."

(3) DELIVERY ALLOWANCES.—For the purpose of this subsection, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basic grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with paragraph (1)(F), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary, as such values were established by the sales of spot cotton, in such designated five or more markets. For purposes of this paragraph, such values in the such spot markets shall be based upon the standards for grades of cotton established by the Secretary. Whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary.

(g) TENDERED GRADE CONTRACTS.—

(1) CONDITIONS.—Each tendered grade cotton future contract shall comply with each of the following conditions:

(A) COMPLIANCE WITH SUBSECTION (f).—Comply with all the terms and conditions of subsection (f) not inconsistent with this subsection; and

(B) PROVISION FOR CONTINGENT SPECIFIC PERFORMANCE.—Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(2) INCORPORATION OF CONDITIONS IN CONTRACT.—Contracts made in compliance with this subsection shall be known as "subsection (g) Contracts". The provisions of this subsection shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (g)".

Ante, p. 1841.

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regulations.

(3) APPLICATION OF SUBSECTION.—Nothing in this subsection shall be so construed as to authorize any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any “fixed difference” system, or by arbitration, or by any other method not provided for by this section.

(h) SPECIFIC GRADE CONTRACTS.—

(1) CONDITIONS.—Each specific grade cotton futures contract shall comply with each of the following conditions:

(A) CONFORMITY WITH RULES AND REGULATIONS.—Conform to the rules and regulations made pursuant to this section.

(B) SPECIFICATION OF GRADE, PRICE, DATES OF SALE AND DELIVERY.—Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(C) PROHIBITION OF DELIVERY OF OTHER THAN SPECIFIED GRADE.—Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(D) PROVISION FOR SPECIFIC PERFORMANCE.—Provide that the delivery of cotton under the contract shall not be effected by means of “setoff” or “ring” settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(2) INCORPORATION OF CONDITIONS IN CONTRACT.—The provisions of paragraphs (1) (A), (C), and (D) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words “Subject to United States Cotton Futures Act, subsection (h)”.

Ante, p. 1841.

(3) APPLICATION OF SUBSECTION.—This subsection shall not be construed to apply to any contract of sale made in compliance with subsection (f) or (g).

(i) LIABILITY OF PRINCIPAL FOR ACTS OF AGENT.—When construing and enforcing the provisions of this section, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

(j) REGULATIONS.—The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

(k) VIOLATIONS.—Any person who knowingly violates any regulation made in pursuance of this section, shall, upon conviction thereof, be fined not less than \$100 nor more than \$500, for each violation thereof, in the discretion of the court, and, in case of natural persons, may, in addition be punished by imprisonment for not less than 30 days nor more than 90 days, for each violation, in the discretion of the

court except that this subsection shall not apply to violations subject to subsection (d) (3).

(1) **APPLICABILITY TO CONTRACTS PRIOR TO EFFECTIVE DATE.**—The provisions of this section shall not apply to any cotton futures contract entered into prior to the effective date of this section or to any act or failure to act by any person prior to such effective date and all such prior contracts, acts or failure to act shall continue to be governed by the applicable provisions of the Internal Revenue Code of 1954 as in effect prior to the enactment of this section. All designations of bona fide spot markets and all rules and regulations issued by the Secretary pursuant to the applicable provisions of the Internal Revenue Code of 1954 which were in effect on the effective date of this section, shall remain fully effective as designations and regulations under this section until superseded, amended, or terminated by the Secretary.

(m) **AUTHORIZATION.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(n) **CONFORMING AND CLERICAL AMENDMENTS.**—

(1) Section 6808 (relating to cross references) is amended by striking out paragraph (2), and by redesignating paragraphs (3), (6), and (11) as paragraphs (1), (2), and (3), respectively.

(2) (A) Section 7233 (relating to failure to pay tax on cotton futures) is repealed.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7233.

(3) (A) Section 7263 (relating to penalties concerning cotton futures) is repealed.

(B) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7263.

(4) (A) Subchapter E of chapter 76 (relating to miscellaneous provisions regarding cotton futures contracts) is repealed.

(B) The table of subchapters for chapter 76 is amended by striking out the items relating to subchapter E.

(5) Chapter 39 (relating to regulatory taxes) is amended by striking out the chapter heading and the table of subchapters.

(6) The table of chapters for subtitle D is amended by striking out the item relating to chapter 39.

(o) **EFFECTIVE DATE.**—The provisions of this section shall take effect on the 90th day after the date of the enactment of this Act.

TITLE XX—ESTATE AND GIFT TAXES

SEC. 2001. UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES; UNIFIED CREDIT IN LIEU OF SPECIFIC EXEMPTIONS.

(a) **CHANGES IN ESTATE TAX.**—

(1) **IMPOSITION OF TAX; RATE SCHEDULE.**—Section 2001 (relating to rate of tax) is amended to read as follows:

“SEC. 2001. IMPOSITION AND RATE OF TAX.

“(a) **IMPOSITION.**—A tax is hereby imposed on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

“(b) **COMPUTATION OF TAX.**—The tax imposed by this section shall be the amount equal to the excess (if any) of—

“(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (c) on the sum of—

“(A) the amount of the taxable estate, and

“(B) the amount of the adjusted taxable gifts, over

“(2) the aggregate amount of tax payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976. 26 USC 2501.

For purposes of paragraph (1) (B), the term ‘adjusted taxable gifts’ means the total amount of the taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

“(c) RATE SCHEDULE.—

“If the amount with respect to which the tentative tax is to be computed is:

Not over \$10,000-----	18 percent of such amount.
Over \$10,000 but not over \$20,000-----	\$1,800, plus 20 percent of the excess of such amount over \$10,000.
Over \$20,000 but not over \$40,000-----	\$3,800, plus 22 percent of the excess of such amount over \$20,000.
Over \$40,000 but not over \$60,000-----	\$8,200, plus 24 percent of the excess of such amount over \$40,000.
Over \$60,000 but not over \$80,000-----	\$13,000, plus 26 percent of the excess of such amount over \$60,000.
Over \$80,000 but not over \$100,000-----	\$18,200, plus 28 percent of the excess of such amount over \$80,000.
Over \$100,000 but not over \$150,000-----	\$23,800, plus 30 percent of the excess of such amount over \$100,000.
Over \$150,000 but not over \$250,000-----	\$38,800, plus 32 percent of the excess of such amount over \$150,000.
Over \$250,000 but not over \$500,000-----	\$70,800, plus 34 percent of the excess of such amount over \$250,000.
Over \$500,000 but not over \$750,000-----	\$155,800, plus 37 percent of the excess of such amount over \$500,000.
Over \$750,000 but not over \$1,000,000-----	\$248,300, plus 39 percent of the excess of such amount over \$750,000.
Over \$1,000,000 but not over \$1,250,000-----	\$345,800 plus 41 percent of the excess of such amount over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000-----	\$448,300, plus 43 percent of the excess of such amount over \$1,250,000.
Over \$1,500,000 but not over \$2,000,000-----	\$555,800, plus 45 percent of the excess of such amount over \$1,500,000.
Over \$2,000,000 but not over \$2,500,000-----	\$780,800, plus 49 percent of the excess of such amount over \$2,000,000.
Over \$2,500,000 but not over \$3,000,000--	\$1,025,800, plus 53 percent of the excess of such amount over \$2,500,000.
Over \$3,000,000 but not over \$3,500,000--	\$1,290,800, plus 57 percent of the excess of such amount over \$3,000,000.
Over \$3,500,000 but not over \$4,000,000--	\$1,575,800, plus 61 percent of the excess of such amount over \$3,500,000.
Over \$4,000,000 but not over \$4,500,000--	\$1,880,800, plus 65 percent over the excess of such amount over \$4,000,000.
Over \$4,500,000 but not over \$5,000,000--	\$2,205,800, plus 69 percent of the excess of such amount over \$4,500,000.
Over \$5,000,000-----	\$2,550,800, plus 70 percent of the excess of such amount over \$5,000,000.

“(d) ADJUSTMENT FOR GIFT TAX PAID BY SPOUSE.—For purposes of subsection (b) (2), if—

“(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent’s spouse, and

“(2) the amount of such gift is includible in the gross estate of the decedent,

any tax payable by the spouse under chapter 12 on such gift (as determined under section 2012(d)) shall be treated as a tax payable with respect to a gift made by the decedent.”

(2) ALLOWANCE OF UNIFIED CREDIT.—Part II of subchapter A of chapter 11 (relating to credits against the estate tax) is amended by inserting before section 2011 the following new section:

26 USC 2010.

"SEC. 2010. UNIFIED CREDIT AGAINST ESTATE TAX.

"(a) GENERAL RULE.—A credit of \$47,000 shall be allowed to the estate of every decedent against the tax imposed by section 2001.

"(b) PHASE-IN OF \$47,000 CREDIT.—

Subsection (a) shall be applied by substituting for '47,000' the following amount:	
"In the case of decedents dying in:	
1977 -----	\$30,000
1978 -----	34,000
1979 -----	38,000
1980 -----	42,500

"(c) ADJUSTMENT TO CREDIT FOR CERTAIN GIFTS MADE BEFORE 1977.—The amount of the credit allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) shall not exceed the amount of the tax imposed by section 2001."

26 USC 2012.

(3) TERMINATION OF CREDIT FOR GIFT TAX.—Section 2012 (relating to credit for gift tax) is amended by adding at the end thereof the following new subsection:

"(e) SECTION INAPPLICABLE TO GIFTS MADE AFTER DECEMBER 31, 1976.—No credit shall be allowed under this section with respect to the amount of any tax paid under chapter 12 on any gift made after December 31, 1976."

26 USC 2052.

(4) REPEAL OF SPECIFIC EXEMPTION.—Section 2052 (relating to exemption for purposes of the estate tax) is hereby repealed.

26 USC 2035.

(5) ADJUSTMENTS FOR GIFTS MADE WITHIN 3 YEARS OF DEATH.—Section 2035 (relating to transactions in contemplation of death) is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF GIFTS MADE BY DECEDENT.—Except as provided in subsection (b), the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) any bona fide sale for an adequate and full consideration in money or money's worth, and

"(2) any gift excludable in computing taxable gifts by reason of section 2503(b) (relating to \$3,000 annual exclusion for purposes of the gift tax) determined without regard to section 2513(a).

"(c) INCLUSION OF GIFT TAX ON CERTAIN GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse after Decem-

ber 31, 1976, and during the 3-year period ending on the date of the decedent's death."

(b) CHANGES IN GIFT TAX.—

(1) RATE OF TAX.—Subsection (a) of section 2502 (relating to rate of gift tax) is amended to read as follows: 26 USC 2502.

"(a) COMPUTATION OF TAX.—The tax imposed by section 2501 for each calendar quarter shall be an amount equal to the excess of—

"(1) a tentative tax, computed in accordance with the rate schedule set forth in section 2001(c), on the aggregate sum of the taxable gifts for such calendar quarter and for each of the preceding calendar years and calendar quarters, over *Ante*, p. 1846.

"(2) a tentative tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters."

(2) UNIFIED CREDIT.—Subchapter A of chapter 12 (relating to determination of gift tax liability) is amended by adding at the end thereof the following new section:

"SEC. 2505. UNIFIED CREDIT AGAINST GIFT TAX.

25 USC 2505.

"(a) GENERAL RULE.—In the case of a citizen or resident of the United States, there shall be allowed as a credit against the tax imposed by section 2501 for each calendar quarter an amount equal to—

"(1) \$47,000, reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters.

"(b) PHASE-IN OF \$47,000 CREDIT.—

Subsection (a)(1) shall be applied by substituting for '47,000' the following amount:

"In the case of gifts made:

After December 31, 1976, and before July 1, 1977-----	\$6,000
After June 30, 1977, and before January 1, 1978-----	\$30,000
After December 31, 1977, and before January 1, 1979-----	\$34,000
After December 31, 1978, and before January 1, 1980-----	\$38,000
After December 31, 1979, and before January 1, 1981-----	\$42,500

"(c) ADJUSTMENT TO CREDIT FOR CERTAIN GIFTS MADE BEFORE 1977.—The amount allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the individual after September 8, 1976.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed under subsection (a) for any calendar quarter shall not exceed the amount of the tax imposed by section 2501 for such calendar quarter."

(3) REPEAL OF SPECIFIC EXEMPTION.—Section 2521 (relating to specific exemption in the case of the gift tax) is hereby repealed. 26 USC 2521.

(c) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) CHANGES IN ESTATE TAX.—

(A) CREDIT FOR STATE DEATH TAXES.—Section 2011 (relating to credit for State death taxes) is amended— 26 USC 2011.

(i) by striking out "taxable estate" each place it appears in subsection (b) (including the heading to the table) and inserting in lieu thereof "adjusted taxable estate";

(ii) by adding at the end of subsection (b) the following new sentence:

“Adjusted taxable estate.”

“For purposes of this section, the term ‘adjusted taxable estate’ means the taxable estate reduced by \$60,000.”

(iii) by striking out “taxable estate” each place it appears in subsection (e) and inserting in lieu thereof “adjusted taxable estate”; and

(iv) by adding at the end thereof the following new subsection:

“(f) **LIMITATION BASED ON AMOUNT OF TAX.**—The credit provided by this section shall not exceed the amount of the tax imposed by section 2001, reduced by the amount of the unified credit provided by section 2010.”

26 USC 2012.

(B) **CREDIT FOR GIFT TAX.**—Subsection (a) of section 2012 (relating to credit for gift tax) is amended by striking out “provided by section 2011” and inserting in lieu thereof “provided by section 2011 and the unified credit provided by section 2010”.

Ante, p. 1848.

(C) **CREDIT FOR TAX ON PRIOR TRANSFERS.**—

26 USC 2013.

(i) The first sentence of section 2013(b) is amended by striking out “and increased by the exemption provided for by section 2052 or section 2106(a) (3), or the corresponding provisions of prior laws, in determining the taxable estate of the transferor for purposes of the estate tax”.

(ii) Subparagraph (A) of section 2013(e) (1) is amended to read as follows:

“(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in sections 2010, 2011, 2012, and 2014) computed without regard to this section, exceeds”.

26 USC 2101.

(D) **RATE OF TAX IN CASE OF NONRESIDENTS NOT CITIZENS.**—Section 2101 (relating to tax imposed in the case of estates of nonresidents not citizens) is amended to read as follows:

“SEC. 2101. TAX IMPOSED.

“(a) **IMPOSITION.**—Except as provided in section 2107, a tax is hereby imposed on the transfer of the taxable estate (determined as provided in section 2106) of every decedent nonresident not a citizen of the United States.

“(b) **COMPUTATION OF TAX.**—The tax imposed by this section shall be the amount equal to the excess (if any) of—

“(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the sum of—

“(A) the amount of the taxable estate, and

“(B) the amount of the adjusted taxable gifts, over

“(2) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the amount of the adjusted taxable gifts.

“(c) **ADJUSTMENTS FOR TAXABLE GIFTS.**—

“(1) **ADJUSTED TAXABLE GIFTS DEFINED.**—For purposes of this section, the term ‘adjusted taxable gifts’ means the total amount of the taxable gifts (within the meaning of section 2503 as modified by section 2511) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

“(2) **ADJUSTMENT FOR CERTAIN GIFT TAX.**—For purposes of this section, the rules of section 2001 (d) shall apply.

“(d) RATE SCHEDULE.—

“If the amount with respect to which the tentative tax is to be computed is:

	The tentative tax is:
Not over \$100,000-----	6% of such amount.
Over \$100,000 but not over \$500,000-----	\$6,000, plus 12% of excess over \$100,000.
Over \$500,000 but not over \$1,000,000---	\$54,000, plus 18% of excess over \$500,000.
Over \$1,000,000 but not over \$2,000,000--	\$144,000, plus 24% of excess over \$1,000,000.
Over 2,000,000-----	\$384,000, plus 30% of excess over \$2,000,000.”

(E) CREDIT IN CASE OF ESTATE OF NONRESIDENTS NOT CITIZENS.—

(i) Section 2102 (relating to credits against tax in case of estates of nonresidents not citizens) is amended by adding at the end thereof the following new subsection:

26 USC 2102.

“(c) UNIFIED CREDIT.—

“(1) IN GENERAL.—A credit of \$3,600 shall be allowed against the tax imposed by section 2101. *Ante*, p. 1850.

“(2) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a ‘nonresident not a citizen of the United States’ under section 2209, the credit under this subsection shall be the greater of—

“(A) \$3,600, or

“(B) that proportion of \$15,075 which the value of that part of the decedent’s gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

“(3) PHASE-IN OF PARAGRAPH (2) (B) AMOUNT.—In the case of a decedent dying before 1981, paragraph (2) (B) shall be applied—

“(A) in the case of a decedent dying during 1977, by substituting ‘\$8,480’ for ‘\$15,075’,

“(B) in the case of a decedent dying during 1978, by substituting ‘\$10,080’ for ‘\$15,075’,

“(C) in the case of a decedent dying during 1979, by substituting ‘\$11,680’ for ‘\$15,075’, and

“(D) in the case of a decedent dying during 1980, by substituting ‘\$13,388’ for ‘\$15,075’.

“(4) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under this subsection shall not exceed the amount of the tax imposed by section 2101.

“(5) APPLICATION OF OTHER CREDITS.—For purposes of subsection (a), sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under this subsection were allowed under section 2010.”

(ii) Subsection (c) of section 2107 (relating to expatriation to avoid tax) is amended to read as follows: 26 USC 2107.

“(c) CREDITS.—

“(1) UNIFIED CREDIT.—

“(A) IN GENERAL.—A credit of \$13,000 shall be allowed against the tax imposed by subsection (a).

“(B) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under this paragraph shall not exceed the amount of the tax imposed by subsection (a).

“(2) OTHER CREDITS.—The tax imposed by subsection (a) shall be credited with the amounts determined in accordance with sub-

sections (a) and (b) of section 2102. For purposes of subsection (a) of section 2102, sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under paragraph (1) were allowed under section 2010.”

26 USC 2106. (F) REPEAL OF SPECIFIC EXEMPTION.—Paragraph (3) of section 2106(a) (relating to specific exemption in case of decedents nonresidents not citizens) is hereby repealed.

26 USC 2014. (G) CREDIT FOR FOREIGN DEATH TAXES.—Paragraph (2) of section 2014(b) (relating to limitations on credit) is amended by striking out “sections 2011 and 2012” and inserting in lieu thereof “sections 2010, 2011, and 2012”.

26 USC 2206. (H) LIABILITY OF LIFE INSURANCE BENEFICIARIES.—The first sentence of section 2206 (relating to liability of life insurance beneficiaries) is amended by striking out “the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051” and inserting in lieu thereof “the taxable estate”.

26 USC 2207. (I) LIABILITY OF RECIPIENTS OF CERTAIN PROPERTY.—The first sentence of section 2207 (relating to liability of recipient of property over which decedent had power of appointment) is amended by striking out “the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2052, or section 2106(a), as the case may be” and inserting in lieu thereof “the taxable estate”.

26 USC 6018. (J) RETURN BY EXECUTOR.—Subsection (a) of section 6018 (relating to estate tax returns by executor) is amended—

(i) by striking out “\$60,000” in paragraph (1) and inserting in lieu thereof “\$175,000”;

(ii) by striking out “\$30,000” in paragraph (2) and inserting in lieu thereof “\$60,000”; and

(iii) by adding at the end thereof the following new paragraphs:

“(3) PHASE-IN OF FILING REQUIREMENT AMOUNT.—In the case of a decedent dying before 1981, paragraph (1) shall be applied—

“(A) in the case of a decedent dying during 1977, by substituting ‘\$120,000’ for ‘\$175,000’,

“(B) in the case of a decedent dying during 1978, by substituting ‘\$134,000’ for ‘\$175,000’,

“(C) in the case of a decedent dying during 1979, by substituting ‘\$147,000’ for ‘\$175,000’, and

“(D) in the case of a decedent dying during 1980, by substituting ‘\$161,000’ for ‘\$175,000’.

“(4) ADJUSTMENT FOR CERTAIN GIFTS.—The amount applicable under paragraph (1) and the amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

Ante, p. 1846.

“(A) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the decedent after December 31, 1976, plus

19 USC 2101.

“(B) the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.”

26 USC 2038.

(K) REVOCABLE TRANSFERS.—

(i) Paragraph (1) of section 2038(a) (relating to revocable transfers) is amended by striking out “in con-

templation of decedent's death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death".

(ii) Paragraph (2) of section 2038(a) (relating to revocable transfer) is amended by striking out "in contemplation of his death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death". 26 USC 2038.

(L) PROPERTY WITHIN THE UNITED STATES.—Subsection (b) of section 2104 (relating to revocable transfers and transfers in contemplation of death) is amended by striking out "AND TRANSFERS IN CONTEMPLATION OF DEATH" in the subsection heading and inserting in lieu thereof "AND TRANSFERS WITHIN 3 YEARS OF DEATH". 26 USC 2104.

(M) PRIOR INTERESTS.—Section 2044 (relating to prior interests) is amended by striking out "specifically provided therein" and inserting in lieu thereof "specifically provided by law". 26 USC 2044.

(N) CLERICAL AMENDMENTS.—

(i) The item relating to section 2001 in the table of sections for part I of subchapter A of chapter 11 is amended to read as follows:

"Sec. 2001. Imposition and rate of tax."

(ii) The table of sections for part II of subchapter A of chapter 11 is amended by inserting before the item relating to section 2011 the following new item:

"Sec. 2010. Unified credit against estate tax."

(iii) The table of sections for part III of subchapter A of chapter 11 is amended by striking out the item relating to section 2035 and inserting in lieu thereof the following new item:

"Sec. 2035. Adjustments for gifts made within 3 years of decedent's death."

(iv) The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2052.

(2) CHANGES IN GIFT TAX.—

(A) TAXABLE GIFTS FOR PRECEDING YEARS AND QUARTERS.—Subsection (a) of section 2504 (relating to taxable gifts for preceding years and quarters) is amended by striking out "except that" and all that follows and inserting in lieu thereof "except that the specific exemption in the amount, if any, allowable under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) shall be applied in all computations in respect of calendar years or calendar quarters ending before January 1, 1977, for purposes of computing the tax for any calendar quarter." 26 USC 2504.

(B) CLERICAL AMENDMENTS.—

(i) The table of sections for subchapter A of chapter 12 is amended by adding at the end thereof the following new item:

"Sec. 2505. Unified credit against gift tax."

(ii) The table of sections for subchapter C of chapter 12 is amended by striking out the item relating to section 2521.

(d) EFFECTIVE DATES.—

26 USC 2001
note.

(1) The amendments made by subsections (a) and (c) (1) shall apply to the estates of decedents dying after December 31, 1976; except that the amendments made by subsection (a) (5) and subparagraphs (K) and (L) of subsection (c) (1) shall not apply to transfers made before January 1, 1977.

26 USC 2502
note.

(2) The amendments made by subsections (b) and (c) (2) shall apply to gifts made after December 31, 1976.

SEC. 2002. INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS; FRACTIONAL INTERESTS OF SPOUSE.

26 USC 2056.

(a) INCREASE IN ESTATE TAX MARITAL DEDUCTION.—Paragraph (1) of section 2056(c) (relating to limitation on marital deduction) is amended to read as follows:

“(1) LIMITATION.—

“(A) IN GENERAL.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) shall not exceed the greater of—

“(i) \$250,000, or

“(ii) 50 percent of the value of the adjusted gross estate (as defined in paragraph (2)).

“(B) ADJUSTMENT FOR CERTAIN GIFTS TO SPOUSE.—If a deduction is allowed to the decedent under section 2523 with respect to any gift made to his spouse after December 31, 1976, the limitation provided by subparagraph (A) (determined without regard to this subparagraph) shall be reduced (but not below zero) by the excess (if any) of—

“(i) the aggregate of the deductions allowed to the decedent under section 2523 with respect to gifts made after December 31, 1976, over

“(ii) the aggregate of the deductions which would have been allowable under section 2523 with respect to gifts made after December 31, 1976, if the amount deductible under such section with respect to any gift were 50 percent of its value.

“(C) COMMUNITY PROPERTY ADJUSTMENT.—The \$250,000 amount set forth in subparagraph (A) (i) shall be reduced by the excess (if any) of—

“(i) the amount of the subtraction determined under clauses (i), (ii), and (iii) of paragraph (2) (B), over

“(ii) the excess of the aggregate of the deductions allowed under sections 2053 and 2054 over the amount taken into account with respect to such deductions under clause (iv) of paragraph (2) (B).”

26 USC 2523.

(b) INCREASE IN GIFT TAX MARITAL DEDUCTION.—Subsection (a) of section 2523 (relating to deduction for gift to spouse) is amended to read as follows:

“(a) ALLOWANCE OF DEDUCTION.—

“(1) IN GENERAL.—Where a donor who is a citizen or resident transfers during the calendar quarter by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar quarter an amount with respect to such interest equal to its value.

“(2) LIMITATION.—The aggregate of the deductions allowed under paragraph (1) for any calendar quarter shall not exceed the sum of—

“(A) \$100,000 reduced (but not below zero) by the aggregate of the deductions allowed under this section for preceding calendar quarters beginning after December 31, 1976; plus

“(B) 50 percent of the lesser of—

“(i) the amount of the deductions allowable under paragraph (1) for such calendar quarter (determined without regard to this paragraph); or

“(ii) the amount (if any) by which the aggregate of the amounts determined under clause (i) for the calendar quarter and for each preceding calendar quarter beginning after December 31, 1976, exceeds \$200,000.”

(c) FRACTIONAL INTEREST OF SPOUSE.—

(1) IN GENERAL.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsection: 26 USC 2040.

“(b) CERTAIN JOINT INTERESTS OF HUSBAND AND WIFE.—

“(1) INTERESTS OF SPOUSE EXCLUDED FROM GROSS ESTATE.—Notwithstanding subsection (a), in the case of any qualified joint interest, the value included in the gross estate with respect to such interest by reason of this section is one-half of the value of such qualified joint interest.

“(2) QUALIFIED JOINT INTEREST DEFINED.—For purposes of paragraph (1), the term ‘qualified joint interest’ means any interest in property held by the decedent and the decedent’s spouse as joint tenants or as tenants by the entirety, but only if—

“(A) such joint interest was created by the decedent, the decedent’s spouse, or both.

“(B)(i) in the case of personal property, the creation of such joint interest constituted in whole or in part a gift for purposes of chapter 12, or

“(ii) in the case of real property, an election under section 2515 applies with respect to the creation of such joint interest, and

“(C) in the case of a joint tenancy, only the decedent and the decedent’s spouse are joint tenants.”

(2) AMENDMENT OF RELATED GIFT TAX PROVISION.—Subsection (c) of section 2515 (relating to election with respect to tenancies by the entirety) is amended to read as follows: 26 USC 2515.

“(c) EXERCISE OF ELECTION.—

“(1) IN GENERAL.—The election provided by subsection (a) shall be exercised by including such creation of a tenancy by the entirety as a transfer by gift, to the extent such transfer constitutes a gift (determined without regard to this section), in the gift tax return of the donor for the calendar quarter in which such tenancy by the entirety was created, filed within the time prescribed by law, irrespective of whether or not the gift exceeds the exclusion provided by section 2503(b).

“(2) SUBSEQUENT ADDITIONS IN VALUE.—If the election provided by subsection (a) has been made with respect to the creation of any tenancy by the entirety, such election shall also apply to each addition made to the value of such tenancy by the entirety.

“(3) CERTAIN ACTUARIAL COMPUTATIONS NOT REQUIRED.—In the case of any election under subsection (a) with respect to any property, the retained interest of each spouse shall be treated as one-half of the value of their joint interest.”

26 USC 2040.

(3) CLERICAL AMENDMENT.—Section 2040 is amended by striking out “The value” and inserting in lieu thereof the following:
“(a) GENERAL RULE.—The value”.

(d) EFFECTIVE DATES.—

26 USC 2056
note.

(1) (A) Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1976.

(B) If—

(i) the decedent dies after December 31, 1976, and before January 1, 1979,

(ii) by reason of the death of the decedent property passes from the decedent or is acquired from the decedent under a will executed before January 1, 1977, or a trust created before such date, which contains a formula expressly providing that the spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by Federal law,

(iii) the formula referred to in clause (ii) was not amended at any time after December 31, 1976, and before the death of the decedent, and

(iv) the State does not enact a statute applicable to such estate which construes this type of formula as referring to the marital deduction allowable by Federal law as amended by subsection (a),

then the amendment made by subsection (a) shall not apply to the estate of such decedent.

26 USC 2523
note.

(2) The amendment made by subsection (b) shall apply to gifts made after December 31, 1976.

26 USC 2040
note.

(3) The amendments made by subsection (c) shall apply to joint interests created after December 31, 1976.

SEC. 2003. VALUATION FOR PURPOSES OF THE FEDERAL ESTATE TAX OF CERTAIN REAL PROPERTY DEVOTED TO FARMING OR CLOSELY HELD BUSINESSES.

(a) GENERAL RULE.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2032 the following new section:

26 USC 2032A.

“SEC. 2032A. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

“(a) VALUE BASED ON USE UNDER WHICH PROPERTY QUALIFIES.—

“(1) GENERAL RULE.—If—

“(A) the decedent was (at the time of his death) a citizen or resident of the United States, and

“(B) the executor elects the application of this section and files the agreement referred to in subsection (d) (2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use under which it qualifies, under subsection (b), as qualified real property.

“(2) LIMITATION.—The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed \$500,000.

“(b) QUALIFIED REAL PROPERTY.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified real property’ means real property located in the United States which, on the date of the decedent’s death, was being used for a qualified use, but only if—

“(A) 50 percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which—

“(i) on the date of the decedent’s death, was being used for a qualified use, and

“(ii) was acquired from or passed from the decedent to a qualified heir of the decedent.

“(B) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A) (ii) and (C),

“(C) during the 8-year period ending on the date of the decedent’s death there have been periods aggregating 5 years or more during which—

“(i) such real property was owned by the decedent or a member of the decedent’s family and used for a qualified use, and

“(ii) there was material participation by the decedent or a member of the decedent’s family in the operation of the farm or other business, and

“(D) such real property is designated in the agreement referred to in subsection (d) (2).

“(2) QUALIFIED USE.—For purposes of this section, the term ‘qualified use’ means the devotion of the property to any of the following:

“(A) use as a farm for farming purposes, or

“(B) use in a trade or business other than the trade or business of farming.

“(3) ADJUSTED VALUE.—For purposes of paragraph (1), the term ‘adjusted value’ means—

“(A) in the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction under paragraph (4) of section 2053 (a), or

“(B) in the case of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property under paragraph (4) of section 2053 (a).

“(c) TAX TREATMENT OF DISPOSITIONS AND FAILURES TO USE FOR QUALIFIED USE.—

“(1) IMPOSITION OF ADDITIONAL ESTATE TAX.—If, within 15 years after the decedent’s death and before the death of the qualified heir—

“(A) the qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his family), or

“(B) the qualified heir ceases to use for the qualified use the qualified real property which was acquired (or passed) from the decedent,

then, there is hereby imposed an additional estate tax.

“(2) AMOUNT OF ADDITIONAL TAX.—

“(A) IN GENERAL.—The amount of the additional tax imposed by paragraph (1) with respect to any interest shall be the amount equal to the lesser of—

“(i) the adjusted tax difference attributable to such interest, or

“(ii) the excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market value of the interest) over the value of the interest determined under subsection (a).

“(B) ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO INTEREST.—For purposes of subparagraph (A), the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under subparagraph (C)) as—

“(i) the excess of the value of such interest for purposes of this chapter (determined without regard to subsection (a)) over the value of such interest determined under subsection (a), bears to

“(ii) a similar excess determined for all qualified real property.

“(C) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of subparagraph (B), the term ‘adjusted tax difference with respect to the estate’ means the excess of what would have been the estate tax liability but for subsection (a) over the estate tax liability. For purposes of this subparagraph, the term ‘estate tax liability’ means the tax imposed by section 2001 reduced by the credits allowable against such tax.

“(D) PARTIAL DISPOSITIONS.—For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) such heir (or a predecessor qualified heir) or there is a cessation of use of such a portion—

“(i) the value determined under subsection (a) taken into account under subparagraph (A) (ii) with respect to such portion shall be its pro rata share of such value of such interest, and

“(ii) the adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this subsection with respect to all prior transactions involving portions of such interest.

“(3) PHASEOUT OF ADDITIONAL TAX BETWEEN 10TH AND 15TH YEARS.—If the date of the disposition or cessation referred to in paragraph (1) occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

“(A) the numerator of which is the number of full months after such death in excess of 120, and

“(B) the denominator of which is 60.

“(4) ONLY 1 ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY 1 PORTION.—In the case of an interest acquired from (or passing from) any decedent, if subparagraph (A) or (B) of paragraph (1) applies to any portion of an interest, subparagraph (B) or

“Estate tax liability.”

Ante, p.1846.

(A), as the case may be, of paragraph (1) shall not apply with respect to the same portion of such interest.

“(5) **DUE DATE.**—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the disposition or cessation referred to in paragraph (1).

“(6) **LIABILITY FOR TAX.**—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

“(7) **CESSATION OF QUALIFIED USE.**—For purposes of paragraph (1) (B), real property shall cease to be used for the qualified use if—

“(A) such property ceases to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b) (2) under which the property qualified under subsection (b), or

“(B) during any period of 8 years ending after the date of the decedent's death and before the date of the death of the qualified heir, there had been periods aggregating 3 years or more during which—

“(i) in the case of periods during which the property was held by the decedent, there was no material participation by the decedent or any member of his family in the operation of the farm or other business, and

“(ii) in the case of periods during which the property was held by any qualified heir, there was no material participation by such qualified heir or any member of his family in the operation of the farm or other business.

“(d) **ELECTION; AGREEMENT.**—

“(1) **ELECTION.**—The election under this section shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

26 USC 6075.
Ante, p. 1846.

“(2) **AGREEMENT.**—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

“(e) **DEFINITIONS; SPECIAL RULES.**—For purposes of this section—

“(1) **QUALIFIED HEIR.**—The term ‘qualified heir’ means, with respect to any property, a member of the decedent's family who acquired such property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

“(2) **MEMBER OF FAMILY.**—The term ‘member of the family’ means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

“(3) **CERTAIN REAL PROPERTY INCLUDED.**—In the case of real property which meets the requirements of subparagraph (C) of subsection (b) (1), residential buildings and related improvements on such real property occupied on a regular basis by the

owner or lessee of such real property or by persons employed by such owner or lessee for the purpose of operating or maintaining such real property, and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use.

“(4) FARM.—The term ‘farm’ includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards and woodlands.

“(5) FARMING PURPOSES.—The term ‘farming purposes’ means—

“(A) cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training, and management of animals) on a farm;

“(B) handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and

“(C) (i) the planting, cultivating, caring for, or cutting of trees, or

“(ii) the preparation (other than milling) of trees for market.

“(6) MATERIAL PARTICIPATION.—Material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 1402(a) (relating to net earnings from self-employment).

“(7) METHOD OF VALUING FARMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the value of a farm for farming purposes shall be determined by dividing—

“(i) the excess of the average annual gross cash rental for comparable land used for farming purposes and located in the locality of such farm over the average annual State and local real estate taxes for such comparable land, by

“(ii) the average annual effective interest rate for all new Federal Land Bank loans.

For purposes of the preceding sentence, each average annual computation shall be made on the basis of the 5 most recent calendar years ending before the date of the decedent's death.

“(B) EXCEPTION.—The formula provided by subparagraph (A) shall not be used—

“(i) where it is established that there is no comparable land from which the average annual gross cash rental may be determined, or

“(ii) where the executor elects to have the value of the farm for farming purposes determined under paragraph (8).

“(8) METHOD OF VALUING CLOSELY HELD BUSINESS INTERESTS, ETC.—In any case to which paragraph (7) (A) does not apply, the following factors shall apply in determining the value of any qualified real property:

“(A) The capitalization of income which the property can be expected to yield for farming or closely held business pur-

poses over a reasonable period of time under prudent management using traditional cropping patterns for the area, taking into account soil capacity, terrain configuration, and similar factors,

“(B) The capitalization of the fair rental value of the land for farm land or closely held business purposes.

“(C) Assessed land values in a State which provides a differential or use value assessment law for farmland or closely held business,

“(D) Comparable sales of other farm or closely held business land in the same geographical area far enough removed from a metropolitan or resort area so that nonagricultural use is not a significant factor in the sales price, and

“(E) Any other factor which fairly values the farm or closely held business value of the property.

“(f) **STATUTE OF LIMITATIONS.**—If qualified real property is disposed of or ceases to be used for a qualified use, then—

“(1) the statutory period for the assessment of any additional tax under subsection (c) attributable to such disposition or cessation shall not expire before the expiration of 3 years from the date the Secretary is notified (in such manner as the Secretary may by regulations prescribe) of such disposition or cessation, and

“(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(g) **APPLICATION OF THIS SECTION AND SECTION 6324B TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.**—The Secretary shall prescribe regulations setting forth the application of this section and section 6324B in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of paragraph (1) of section 6166(b)).”

(b) **SPECIAL LIEN.**—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324A the following new section:

“**SEC. 6324B. SPECIAL LIEN FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO FARM, ETC., VALUATION.**

26 USC 6324B.

“(a) **GENERAL RULE.**—In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)) shall be a lien in favor of the United States on the property in which such interest exists.

Ante, p. 1856.

“(b) **PERIOD OF LIEN.**—The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified farm real property—

“(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

“(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2032A(c) with respect to such interest.

“(c) **CERTAIN RULES MADE APPLICABLE.**—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

Post, p. 1868.

“(d) **SUBSTITUTION OF SECURITY FOR LIEN.**—To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section.”

26 USC 2013.

(c) **CREDIT FOR TAX ON PRIOR TRANSFERS.**—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

“(f) **TREATMENT OF ADDITIONAL TAX IMPOSED UNDER SECTION 2032A.**—If section 2032A applies to any property included in the gross estate of the transferor and an additional tax is imposed with respect to such property under section 2032A (c) before the date which is 2 years after the date of the decedent’s death, for purposes of this section—

“(1) the additional tax imposed by section 2032A (c) shall be treated as a Federal estate tax payable with respect to the estate of the transferor; and

“(2) the value of such property and the amount of the taxable estate of the transferor shall be determined as if section 2032A did not apply with respect to such property.”

(d) **CLERICAL AMENDMENTS.**—

(1) The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2032 the following new item:

“Sec. 2032A. Valuation of certain farm, etc., real property.”

(2) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324A the following new item:

“Sec. 6324B. Special lien for additional estate tax attributable to farm, etc., valuation.”

26 USC 2032A
note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2004. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.

(a) **GENERAL RULE.**—Subchapter B of chapter 62 (relating to extensions of time for payment of tax) is amended by redesignating section 6166 as section 6166A and by inserting after section 6165 the following new section:

26 USC 6166.

“SEC. 6166. ALTERNATE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

“(a) **5-YEAR DEFERRAL; 10-YEAR INSTALLMENT PAYMENT.**—

“(1) **IN GENERAL.**—If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds 65 percent of the adjusted gross estate, the executor may elect to pay part or all of the tax imposed by section 2001 in 2 or more (but not exceeding 10) equal installments.

“(2) **LIMITATION.**—The maximum amount of tax which may be paid in installments under this subsection shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as—

“(A) the closely held business amount, bears to

“(B) the amount of the adjusted gross estate.

“(3) **DATE FOR PAYMENT OF INSTALLMENTS.**—If an election is made under paragraph (1), the first installment shall be paid on or before the date selected by the executor which is not more than

5 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment. 26 USC 6151.

“(4) ELIGIBILITY FOR ELECTION.—No election may be made under this section by the executor of the estate of any decedent if an election under section 6166A applies with respect to the estate of such decedent. *Ante*, p. 1862.

“(b) DEFINITIONS AND SPECIAL RULES.—

“(1) INTEREST IN CLOSELY HELD BUSINESS.—For purposes of this section, the term ‘interest in a closely held business’ means—

“(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

“(B) an interest as a partner in a partnership carrying on a trade or business, if—

“(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

“(ii) such partnership had 15 or fewer partners; or

“(C) stock in a corporation carrying on a trade or business if—

“(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

“(ii) such corporation had 15 or fewer shareholders.

“(2) RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

“(A) TIME FOR TESTING.—Determinations shall be made as of the time immediately before the decedent’s death.

“(B) CERTAIN INTERESTS HELD BY HUSBAND AND WIFE.—Stock or a partnership interest which—

“(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

“(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common, shall be treated as owned by one shareholder or one partner, as the case may be.

“(C) INDIRECT OWNERSHIP.—Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

“(3) FARMHOUSES AND CERTAIN OTHER STRUCTURES TAKEN INTO ACCOUNT.—For purposes of the 65-percent requirement of subsection (a) (1), an interest in a closely held business which is the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

“(4) VALUE.—For purposes of this section, value shall be value determined for purposes of chapter 11 (relating to estate tax).

“(5) CLOSELY HELD BUSINESS AMOUNT.—For purposes of this section, the term ‘closely held business amount’ means the value of

the interest in a closely held business which qualifies under subsection (a) (1).

26 USC 2053,
2054.

Ante, p. 1846.

“(6) ADJUSTED GROSS ESTATE.—For purposes of this section, the term, ‘adjusted gross estate’ means the value of the gross estate reduced by the sum of the amounts allowable as a deduction under section 2053 or 2054. Such sum shall be determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which such return is filed).

“(c) SPECIAL RULE FOR INTERESTS IN 2 OR MORE CLOSELY HELD BUSINESSES.—For purposes of this section, interests in 2 or more closely held businesses, with respect to each of which there is included in determining the value of the decedent’s gross estate more than 20 percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 20-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse’s interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall be treated as having been included in determining the value of the decedent’s gross estate.

“(d) ELECTION.—Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe. If an election under subsection (a) is made, the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of the tax.

“(e) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (a) (2)) be prorated to the installments payable under subsection (a). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

“(f) TIME FOR PAYMENT OF INTEREST.—If the time for payment of any amount of tax has been extended under this section—

“(1) INTEREST FOR FIRST 5 YEARS.—Interest payable under section 6601 of any unpaid portion of such amount attributable to the first 5 years after the date prescribed by section 6151(a) for payment of the tax shall be paid annually.

“(2) INTEREST FOR PERIODS AFTER FIRST 5 YEARS.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after the 5-year period referred to in paragraph (1) shall be paid annually at the same time as, and as a part of, each installment payment of the tax.

“(3) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.—In the case of a deficiency to which subsection (e) applies which is assessed after the close of the 5-year period referred to in paragraph (1), interest attributable to such 5-year period, and interest

assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

“(4) SELECTION OF SHORTER PERIOD.—If the executor has selected a period shorter than 5 years under subsection (a)(3), such shorter period shall be substituted for 5 years in paragraphs (1), (2), and (3) of this subsection.

“(g) ACCELERATION OF PAYMENT.—

“(1) DISPOSITION OF INTEREST; WITHDRAWAL OF FUNDS FROM BUSINESS.—

“(A) If—

“(i) one-third or more in value of an interest in a closely held business which qualifies under subsection (a)(1) is distributed, sold, exchanged, or otherwise disposed of, or

“(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a)(1), made with respect to such interest, equal or exceed one-third of the value of such trade or business,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

“(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies— 26 USC 303.

“(i) subparagraph (A)(i) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed, and

“(ii) subparagraph (A)(ii) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (a)(3) for the payment of the first installment which becomes due after the date of the distribution (or, if earlier, on or before the day which is 1 year after the date of the distribution), there is paid an amount of the tax imposed by section 2001 not less than the amount of money and other property distributed.

“(C) Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as an interest qualifying under subsection (a)(1).

“(D) Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under

the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

“(2) **UNDISTRIBUTED INCOME OF ESTATE.**—

“(A) If an election is made under this section and the estate has undistributed net income for any taxable year ending on or after the due date for the first installment, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

“(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—

“(i) the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deductions for distributions, etc.);

“(ii) the amount of tax imposed for the taxable year on the estate under chapter 1; and

“(iii) the amount of the tax imposed by section 2001 (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

“(3) **FAILURE TO PAY INSTALLMENT.**—If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

“(h) **ELECTION IN CASE OF CERTAIN DEFICIENCIES.**—

“(1) **IN GENERAL.**—If—

“(A) a deficiency in the tax imposed by section 2001 is assessed,

“(B) the estate qualifies under subsection (a)(1), and

“(C) the executor has not made an election under subsection (a),

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

“(2) **TIME OF ELECTION.**—An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary for the payment of the deficiency, and shall be made in such manner as the Secretary shall by regulations prescribe.

“(3) **EFFECT OF ELECTION ON PAYMENT.**—If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (a)(2)) be prorated to the installments which would have been due if an election had been timely made under subsection (a) at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date

26 USC 643.

Ante, p. 1846.

for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

“(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to the application of this section.

“(j) CROSS REFERENCES.—

“(1) Security.—

“For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

“(2) Lien.—

“For special lien (in lieu of bond) in the case of an extension under this section, see section 6324A.

“(3) Period of limitation.—

“For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

“(4) Interest.—

“For provisions relating to interest on tax payable in installments under this section, see subsection (j) of section 6601.”

(b) 4-PERCENT INTEREST RATE.—Section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment of tax) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) 4-PERCENT RATE ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER SECTION 6166.—

“(1) IN GENERAL.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, interest on the 4-percent portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid at the rate of 4 percent. For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

“(2) 4-PERCENT PORTION.—For purposes of this subsection, the term ‘4-percent portion’ means the lesser of—

“(A) \$345,800 reduced by the amount of the credit allowable under section 2010(a); or

Ante, p. 1848.

“(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

“(3) TREATMENT OF PAYMENTS.—If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 4-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 4-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 4-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166.”

(c) REASONABLE CAUSE SUBSTITUTED FOR UNDUE HARDSHIP IN DETERMINING ELIGIBILITY FOR EXTENSIONS OF PAYMENT OF ESTATE TAX.—

(1) Paragraph (2) of section 6161(a) (relating to extension of time for paying estate tax) is amended to read as follows:

26 USC 6161.

“(2) ESTATE TAX.—The Secretary may, for reasonable cause, extend the time for payment of—

“(A) any part of the amount determined by the executor as the tax imposed by chapter 11, or

“(B) any part of any installment under section 6166 or 6166A (including any part of a deficiency prorated to any installment under such section),

for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax (or, in the case of an amount referred to in subparagraph (B), if later, not beyond the date which is 12 months after the due date for the last installment)."

26 USC 6161.

(2) Subsection (b) of section 6161 (relating to extension of time for payment of certain deficiencies) is amended to read as follows:
 "(b) AMOUNT DETERMINED AS DEFICIENCY.—

"(1) INCOME, GIFT, AND CERTAIN OTHER TAXES.—Under regulations prescribed by the Secretary, the Secretary may extend the time for the payment of the amount determined as a deficiency of a tax imposed by chapter 1, 12, 41, 42, 43, or 44 for a period not to exceed 18 months from the date fixed for the payment of the deficiency, and in exceptional cases, for a further period not to exceed 12 months. An extension under this paragraph may be granted only where it is shown to the satisfaction of the Secretary that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, 41, 42, 43, or 44, or to the donor in the case of a tax imposed by chapter 12.

"(2) ESTATE TAX.—Under regulations prescribed by the Secretary, the Secretary may, for reasonable cause, extend the time for the payment of any deficiency of a tax imposed by chapter 11 for a reasonable period not to exceed 4 years from the date otherwise fixed for the payment of the deficiency.

"(3) NO EXTENSION FOR CERTAIN DEFICIENCIES.—No extension shall be granted under this subsection for any deficiency if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax."

26 USC 6163.

(3) Subsection (b) of section 6163 (relating to extension to prevent undue hardship in case of reversionary or remainder interest) is amended to read as follows:

"(b) EXTENSION FOR REASONABLE CAUSE.—At the expiration of the period of postponement provided for in subsection (a), the Secretary may, for reasonable cause, extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of the period of postponement provided in subsection (a)."

26 USC 6503.

(4) Subsection (d) of section 6503 (relating to extensions of time for payment of estate tax) is amended by striking out "section 6166" and inserting in lieu thereof "section 6163, 6166, or 6166A".

(d) SPECIAL LIEN FOR ESTATE TAX DEFERRED UNDER SECTION 6166.—

(1) IN GENERAL.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324 the following new section:

26 USC 6324A.

"SEC. 6324A. SPECIAL LIEN FOR ESTATE TAX DEFERRED UNDER SECTION 6166 OR 6166A.

"(a) GENERAL RULE.—In the case of any estate with respect to which an election has been made under section 6166 or 6166A, if the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

"(b) SECTION 6166 LIEN PROPERTY.—

“(1) IN GENERAL.—For purposes of this section, the term ‘section 6166 lien property’ means interests in real and other property to the extent such interests—

“Section 6166 lien property.”

“(A) can be expected to survive the deferral period, and

“(B) are designated in the agreement referred to in subsection (c).

“(2) MAXIMUM VALUE OF REQUIRED PROPERTY.—The maximum value of the property which the Secretary may require as section 6166 lien property with respect to any estate shall be a value which is not greater than the sum of—

“(A) the deferred amount, and

“(B) the aggregate interest amount.

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151 (a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

26 USC 6151.

“(3) PARTIAL SUBSTITUTION OF BOND FOR LIEN.—If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interests in property covered by the agreement referred to in subsection (c), the Secretary may accept bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.

Ante, p. 1861.

Ante, p. 1862.

“(c) AGREEMENT.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—

“(1) consenting to the creation of the lien under this section with respect to such property, and

“(2) designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or 6166A or this section.

Ante, p. 1862.

“(d) SPECIAL RULES.—

“(1) REQUIREMENT THAT LIEN BE FILED.—The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic’s lien, or judgment lien creditor until notice thereof which meets the requirements of section 6323 (f) has been filed by the Secretary. Such notice shall not be required to be refiled.

“(2) PERIOD OF LIEN.—The lien imposed by this section shall arise at the time the executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.

“(3) PRIORITIES.—Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—

“(A) REAL PROPERTY TAX AND SPECIAL ASSESSMENT LIENS.—To the extent provided in section 6323(b)(6).

“(B) REAL PROPERTY SUBJECT TO A MECHANIC’S LIEN FOR REPAIRS AND IMPROVEMENTS.—In the case of any real property subject to a lien for repair or improvement, as against a mechanic’s lienor.

“(C) REAL PROPERTY CONSTRUCTION OR IMPROVEMENT FINANCING AGREEMENT.—As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax lien filing). Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g) or 6166A(h).

Ante, p. 1862.

“(4) LIEN TO BE IN LIEU OF SECTION 6324 LIEN.—If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.

“(5) ADDITIONAL LIEN PROPERTY REQUIRED IN CERTAIN CASES.—If at any time the value of the property covered by the agreement is less than the unpaid portion of the deferred amount and the aggregate interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished) within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(g) or 6166A(h).

“(6) LIEN TO BE IN LIEU OF BOND.—The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.

“(e) DEFINITIONS.—For purposes of this section—

“(1) DEFERRED AMOUNT.—The term ‘deferred amount’ means the aggregate amount deferred under section 6166 or 6166A (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

“(2) AGGREGATE INTEREST AMOUNT.—The term ‘aggregate interest amount’ means the aggregate amount of interest which will be payable over the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

“(3) DEFERRAL PERIOD.—The term ‘deferral period’ means the period for which the payment of tax is deferred pursuant to the election under section 6166 or 6166A.

“(4) APPLICATION OF DEFINITIONS IN CASE OF DEFICIENCIES.—In the case of a deficiency, a separate deferred amount, aggregate interest amount, and deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166 or 6166A.”

26 USC 2204.

(2) DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

“(c) SPECIAL LIEN UNDER SECTION 6324A.—For purposes of the second sentence of subsection (a) and the last sentence of subsection (b), an agreement which meets the requirements of section 6324A (relating to special lien for estate tax deferred under section 6166 or 6166A) shall be treated as the furnishing of bond with respect to the

Ante, p. 1868.

amount for which the time for payment has been extended under *Ante*, p. 1862.
section 6166 or 6166A.”

(e) AMENDMENTS OF SECTION 303.—

(1) EXTENSION OF PERIOD FOR DISTRIBUTION.—Paragraph (1) of section 303(b) (relating to distributions in redemption of stock to pay death taxes) is amended by striking out “or” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “, or ”, and by adding at the end thereof the following new subparagraph: 26 USC 303.

“(C) If an election has been made under section 6166 or 6166A and if the time prescribed by this subparagraph expires at a later date than the time prescribed by subparagraph (B) of this paragraph, within the time determined under section 6166 or 6166A for the payment of the installments.”

(2) RELATIONSHIP OF STOCK TO DECEDENT’S ESTATE.—

(A) Subparagraph (A) of section 303(b) (2) is amended to read as follows:

“(A) IN GENERAL.—Subsection (a) shall apply to a distribution by a corporation only if the value (for Federal estate tax purposes) of all of the stock of such corporation which is included in determining the value of the decedent’s gross estate exceeds 50 percent of the excess of—

“(i) the value of the gross estate of such decedent, over

“(ii) the sum of the amounts allowable as a deduction under section 2053 or 2054.”

(B) The first sentence of subparagraph (B) of section 303(b) (2) is amended by striking out “the 35 percent and 50 percent requirements” and inserting in lieu thereof “the 50 percent requirement”.

(3) RELATIONSHIP OF SHAREHOLDER TO ESTATE TAX.—Subsection (b) of section 303 is amended by adding at the end thereof the following new paragraphs:

“(3) RELATIONSHIP OF SHAREHOLDER TO ESTATE TAX.—Subsection (a) shall apply to a distribution by a corporation only to the extent that the interest of the shareholder is reduced directly (or through a binding obligation to contribute) by any payment of an amount described in paragraph (1) or (2) of subsection (a).

“(4) ADDITIONAL REQUIREMENTS FOR DISTRIBUTIONS MADE MORE THAN 4 YEARS AFTER DECEDENT’S DEATH.—In the case of amounts distributed more than 4 years after the date of the decedent’s death, subsection (a) shall apply to a distribution by a corporation only to the extent of the lesser of—

“(A) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which remained unpaid immediately before the distribution, or

“(B) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which are paid during the 1-year period beginning on the date of such distribution.”

(4) STOCK WITH SUBSTITUTED BASIS.—Subsection (c) of section 303 (relating to stock with substituted basis) is amended by striking out “limitation specified in subsection (b) (1)” and inserting in lieu thereof “limitations specified in subsection (b)”.

(f) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324 the following new item:

"Sec. 6324A. Special lien for estate tax deferred under section 6166 or 6166A."

26 USC 7403.

(2) Section 7403(a) (relating to action to enforce lien or to subject property to payment of tax) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any acceleration of payment under section 6166 (g) or 6166A(h) shall be treated as a neglect to pay tax."

Ante. p. 1862.

26 USC 2011.

(3) Paragraph (2) of section 2011(c) (relating to credit for State death taxes) is amended by striking out "section 6161" and inserting in lieu thereof "section 6161, 6166 or 6166A".

26 USC 2204.

(4) The last sentence of section 2204(b) is amended by striking out "has not been extended under" and inserting in lieu thereof "has been extended under".

(5) The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6166 and inserting in lieu thereof the following:

"Sec. 6166. Alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business.

"Sec. 6166A. Extension of time for payment of estate tax where estate tax consists largely of interest in closely held business."

(6) Subsections (a) and (b) of section 2204 (relating to discharge of fiduciary from personal liability) are as amended by striking out "or 6166" and inserting in lieu thereof "6166 or 6166A".

26 USC 6166
note.

(g) **EFFECTIVE DATE.**—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2005. CARRYOVER BASIS.

(a) **GENERAL RULE.**—

26 USC 1014.

(1) **AMENDMENT OF SECTION 1014.**—Subsection (d) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

"(d) **DECEDENTS DYING AFTER DECEMBER 31, 1976.**—In the case of a decedent dying after December 31, 1976, the section shall not apply to any property for which a carryover basis is provided by section 1023."

26 USC 1024.

(2) **CARRYOVER BASIS.**—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by redesignating section 1023 as section 1024 and by inserting after section 1022 the following new section:

26 USC 1023.

"SEC. 1023. CARRYOVER BASIS FOR CERTAIN PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 1976.

"(a) **GENERAL RULE.**—

"(1) **CARRYOVER BASIS.**—Except as otherwise provided in this section, the basis of carryover basis property acquired from a decedent dying after December 31, 1976, in the hands of the person so acquiring it shall be the adjusted basis of the property immediately before the death of the decedent, further adjusted as provided in this section.

"(2) **LOSS ON PERSONAL AND HOUSEHOLD EFFECTS.**—In the case of any carryover basis property which, in the hands of the decedent, was a personal or household effect, for purposes of determining loss, the basis of such property in the hands of the person acquiring such property from the decedent shall not exceed its fair market value.

"(b) **CARRYOVER BASIS PROPERTY DEFINED.**—

"(1) **IN GENERAL.**—For purposes of this section, the term 'carryover basis property' means any property which is acquired from

or passed from a decedent (within the meaning of section 1014(b)) and which is not excluded pursuant to paragraph (2) or (3). 26 USC 1014.

“(2) CERTAIN PROPERTY NOT CARRYOVER BASIS PROPERTY.—The term ‘carryover basis property’ does not include—

“(A) any item of gross income in respect of a decedent described in section 691;

“(B) property described in section 2042 (relating to proceeds of life insurance);

“(C) a joint and survivor annuity under which the surviving annuitant is taxable under section 72, and payments and distributions under a deferred compensation plan described in part I of subchapter D of chapter 1 to the extent such payments and distributions are taxable to the decedent’s beneficiary under chapter 1;

“(D) property included in the decedent’s gross estate by reason of section 2035, 2038, or 2041 which has been disposed of before the decedent’s death in a transaction in which gain or loss is recognizable for purposes of chapter 1;

“(E) stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includable in gross income under section 422(c)(1), 423(c), or 424(c)(1); and

“(F) property described in section 1014(b)(5).

“(3) \$10,000 EXCLUSION FOR CERTAIN ASSETS.—

“(A) EXCLUSION.—The term ‘carryover basis property’ does not include any asset—

“(i) which, in the hands of the decedent, was a personal or household effect, and

“(ii) with respect to which the executor has made an election under this paragraph.

“(B) LIMITATION.—The fair market value of all assets designated under this subsection with respect to any decedent shall not exceed \$10,000.

“(C) ELECTION.—An election under this paragraph with respect to any asset shall be made by the executor not later than the date prescribed by section 6075(a) for filing the return of the tax imposed by section 2001 or 2101 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

Ante, pp. 1846,
1850.

“(c) INCREASE IN BASIS FOR FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to the tax imposed by section 2001 or 2101 in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal and State estate taxes as—

“(1) the net appreciation in value of such property, bears to

“(2) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

“(d) \$60,000 MINIMUM FOR BASES OF CARRYOVER BASIS PROPERTIES.—

“(1) IN GENERAL.—If \$60,000 exceeds the aggregate bases (as determined after any adjustment under subsection (h) or (c)) of all carryover basis property, the basis of each appreciated carryover basis property (after any adjustment under subsection (h) or (c)) shall be increased by an amount which bears the same ratio to the amount of such excess as—

“(A) the net appreciation in value of such property, bears to

“(B) the net appreciation in value of all such property.

“(2) SPECIAL RULE FOR PERSONAL OR HOUSEHOLD EFFECT.—For purposes of paragraph (1), the basis of any property which is a personal or household effect shall be treated as not greater than the fair market value of such property.

“(3) NONRESIDENT NOT CITIZEN.—This subsection shall not apply to any carryover basis property acquired from any decedent who was (at the time of his death) a nonresident not a citizen of the United States.

“(e) FURTHER INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAX PAID BY TRANSFEREE OF PROPERTY.—If—

“(1) any person acquires appreciated carryover basis property from a decedent, and

“(2) such person actually pays an amount of estate, inheritance, legacy, or succession taxes with respect to such property to any State or the District of Columbia for which the estate is not liable. then the basis of such property (after any adjustment under subsection (h), (c), or (d)) shall be increased by an amount which bears the same ratio to the aggregate amount of all such taxes paid by such person as—

“(A) the net appreciation in value of such property, bears to

“(B) the fair market value of all property acquired by such person which is subject to such taxes.

“(f) SPECIAL RULES AND DEFINITIONS FOR APPLICATION OF SUBSECTIONS (c), (d), AND (e).—

“(1) FAIR MARKET VALUE LIMITATION.—The adjustments under subsections (c), (d), and (e) shall not increase the basis of property above its fair market value.

“(2) NET APPRECIATION.—For purposes of this section, the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent (as determined after any adjustment under subsection (h)). For purposes of subsection (d), such adjusted basis shall be increased by the amount of any adjustment under subsection (c), and, for purposes of subsection (e), such adjusted basis shall be increased by the amount of any adjustment under subsection (c) or (d).

“(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c), the term ‘Federal and State estate taxes’ means—

“(A) the tax imposed by section 2001 or 2101, reduced by the credits against such tax, and

“(B) any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia.

“(4) CERTAIN MARITAL AND CHARITABLE DEDUCTION PROPERTY TREATED AS NOT SUBJECT TO TAX.—For purposes of subsections (c) and (e), property shall be treated as not subject to a tax—

“(A) with respect to the tax imposed by section 2001 or 2101, to the extent that a deduction is allowable with respect to such property under section 2055 or 2056 or under section 2106(a)(2), and

“(B) with respect to State estate taxes and with respect to the State taxes referred to in subsection (e)(2), to the extent that such property is not subject to such taxes.

“(5) APPRECIATED CARRYOVER BASIS PROPERTY.—For purposes of this section, the term ‘appreciated carryover basis property’ means any carryover basis property if the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent.

“(g) OTHER SPECIAL RULES AND DEFINITIONS.—

“(1) FAIR MARKET VALUE.—For purposes of this section, when not otherwise distinctly expressed, the term ‘fair market value’ means value as determined under chapter 11.

“(2) PROPERTY PASSING FROM THE DECEDENT.—For purposes of this section, property passing from the decedent shall be treated as property acquired from the decedent.

“(3) DECEDENT’S BASIS UNKNOWN.—If the facts necessary to determine the basis (unadjusted) of carryover basis property immediately before the death of the decedent are unknown to the person acquiring such property from the decedent, such basis shall be treated as being the fair market value of such property as of the date (or approximate date) at which such property was acquired by the decedent or by the last preceding owner in whose hands it did not have a basis determined in whole or in part by reference to its basis in the hands of a prior holder.

“(4) CERTAIN MORTGAGES.—For purposes of subsections (c), (d), and (e), if—

“(A) there is an unpaid mortgage on, or indebtedness in respect of, property,

“(B) such mortgage or indebtedness does not constitute a liability of the estate, and

“(C) such property is included in the gross estate undiminished by such mortgage or indebtedness,

then the fair market value of such property to be treated as included in the gross estate shall be the fair market value of such property, diminished by such mortgage or indebtedness.

“(h) ADJUSTMENT TO BASIS FOR DECEMBER 31, 1976, FAIR MARKET VALUE.—

“(1) MARKETABLE BONDS AND SECURITIES.—If the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis of any marketable bond or security on December 31, 1976, and if the fair market value of such bond or security on December 31, 1976, exceeded its adjusted basis on such date, then, for purposes of determining gain, the adjusted basis of such property shall be increased by the amount of such excess.

“(2) PROPERTY OTHER THAN MARKETABLE BONDS AND SECURITIES.—

“(A) IN GENERAL.—If—

“(i) the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis on December 31, 1976, of any property other than a marketable bond or security, and

“(ii) the value of such carryover basis property (as determined with respect to the estate of the decedent without regard to section 2032) exceeds the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subsection),

then, for purposes of determining gain, the adjusted basis of such property immediately before the death of the decedent

(determined without regard to this subsection) shall be increased by the amount determined under subparagraph (B).

“(B) AMOUNT OF INCREASE.—The amount of the increase under this subparagraph for any property is the sum of—

“(i) the excess referred to in subparagraph (A) (ii), reduced by an amount equal to all adjustments for depreciation, amortization, or depletion for the holding period of such property, and then multiplied by the applicable fraction determined under subparagraph (C), and

“(ii) the adjustments to basis for depreciation, amortization, or depletion which are attributable to that portion of the holding period for such property which occurs before January 1, 1977.

“(C) APPLICABLE FRACTION.—For purposes of subparagraph (B) (i), the term ‘applicable fraction’ means, with respect to any property, a fraction—

“(i) the numerator of which is the number of days in the holding period with respect to such property which occurs before January 1, 1977, and

“(ii) the denominator of which is the total number of days in such holding period.

“(D) SUBSTANTIAL IMPROVEMENTS.—Under regulations prescribed by the Secretary, if there is a substantial improvement of any property, such substantial improvement shall be treated as a separate property for purposes of this paragraph.

“(E) DEFINITIONS.—For purposes of this paragraph—

“(i) The term ‘marketable bond or security’ means any security for which, as of December 1976, there was a market on a stock exchange, in an over-the-counter market, or otherwise.

“(ii) The term ‘holding period’ means, with respect to any carryover basis property, the period during which the decedent (or, if any other person held such property immediately before the death of the decedent, such other person) held such property as determined under section 1223; except that such period shall end on the date of the decedent’s death.

“(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”

26 USC 1016.

(3) AMENDMENT OF SECTION 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out the period at the end thereof and by inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

“(23) to the extent provided in section 1023, relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976.”

(4) AMENDMENTS OF SECTION 691.—

26 USC 691.

(A) Section 691(c) (2) (A) (relating to deduction for estate tax in case of income in respect of decedents) is amended to read as follows:

“(A) The term ‘estate tax’ means Federal and State estate taxes (within the meaning of section 1023(f) (3)).”

(B) Section 691(c) (2) (C) is amended to read as follows:

“(C) The estate tax attributable to such net value shall be an amount which bears the same ratio to the estate tax as such net value bears to the value of the gross estate.”

“Estate tax.”

(5) **REPEAL OF SECTION 1246 (e).**—Section 1246 (relating to gain on foreign investment company stock) is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively. 26 USC 1246.

(b) **NONRECOGNITION OF GAIN WHERE CERTAIN APPRECIATED CARRY-OVER BASIS PROPERTY IS USED IN SATISFACTION OF A PECUNIARY REQUEST.**—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

“SEC. 1040. USE OF CERTAIN APPRECIATED CARRYOVER BASIS PROPERTY TO SATISFY PECUNIARY REQUEST. 26 USC 1040.

“(a) **GENERAL RULE.**—If the executor of the estate of any decedent satisfies the right of any person to receive a pecuniary bequest with appreciated carryover basis property (as defined in section 1023(f) (5)), then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11.

Ante, p. 1872.

“(b) **SIMILAR RULE FOR CERTAIN TRUSTS.**—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

“(1) by reason of the death of the decedent, a person has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

“(2) the trustee of the trust satisfies such right with carryover basis property to which section 1023 applies.

“(c) **BASIS OF PROPERTY ACQUIRED IN EXCHANGE DESCRIBED IN SUBSECTION (a) OR (b).**—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange, increased by the amount of the gain recognized to the estate or trust on the exchange.”

(c) **LIMITATION OF INCREASE IN BASIS FOR GIFT TAX PAID TO THAT PORTION OF GIFT TAX ATTRIBUTABLE TO NET APPRECIATION IN VALUE.**—Subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended by adding at the end thereof the following new paragraph:

26 USC 1015.

“(6) **SPECIAL RULE FOR GIFTS MADE AFTER DECEMBER 31, 1976.**—

(A) **IN GENERAL.**—In the case of any gift made after December 31, 1976, the increase in basis provided by this subsection with respect to any gift for the gift tax paid under chapter 12 shall be an amount (not in excess of the amount of tax so paid) which bears the same ratio to the amount of tax so paid as—

“(i) the net appreciation in value of the gift, bears to

“(ii) the amount of the gift.

“(B) **NET APPRECIATION.**—For purposes of paragraph (1), the net appreciation in value of any gift is the amount by which the fair market value of the gift exceeds the donor's adjusted basis immediately before the gift.”

(d) **INFORMATION REQUIREMENT.**—

(1) **IN GENERAL.**—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039 the following new section:

26 USC 6039A. "SEC. 6039A. INFORMATION REGARDING CARRYOVER BASIS PROPERTY ACQUIRED FROM A DECEDENT.

Ante, p. 1872. "(a) IN GENERAL.—Every executor (as defined in section 2203) shall furnish the Secretary such information with respect to carryover basis property to which section 1023 applies as the Secretary may by regulations prescribe.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WHO ACQUIRE PROPERTY FROM A DECEDENT.—Every executor who is required to furnish information under subsection (a) shall furnish in writing to each person acquiring an item of such property from the decedent (or to whom the item passes from the decedent) the adjusted basis of such item."

(2) PENALTIES.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6694. "SEC. 6694. FAILURE TO FILE INFORMATION WITH RESPECT TO CARRYOVER BASIS PROPERTY.

Supra. "(a) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Any executor who fails to furnish information required under subsection (a) of section 6039A on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay a penalty of \$100 for each such failure, but the total amount imposed for all such failures shall not exceed \$5,000.

"(b) INFORMATION REQUIRED TO BE FURNISHED TO BENEFICIARIES.—Any executor who fails to furnish in writing to each person described in subsection (b) of section 6039A the information required under such subsection, unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay a penalty of \$50 for each such failure, but the total amount imposed for all such failures shall not exceed \$2,500."

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1023 and inserting in lieu thereof the following:

"Sec. 1023. Carryover basis for certain property acquired from a decedent dying after December 31, 1976.

"Sec. 1024. Cross references."

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following:

"Sec. 1040. Use of certain appreciated carryover basis property to satisfy pecuniary bequest."

(3) The table of sections for part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039 the following:

"Sec. 6039A. Information regarding carryover basis property acquired from a decedent."

(4) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following:

"Sec. 6694. Failure to file information with respect to carryover basis property."

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply in respect of decedents dying after December 31, 1976.

(2) The amendment made by subsection (c) shall apply to gifts made after December 31, 1976. 26 USC 1023 note.

SEC. 2006. CERTAIN GENERATION-SKIPPING TRANSFERS.

(a) **IMPOSITION OF TAX.**—Subtitle B (relating to estate and gift taxes) is amended by adding at the end thereof the following new chapter:

“CHAPTER 13—TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS

“SUBCHAPTER A. Tax imposed.

“SUBCHAPTER B. Definitions and special rules.

“SUBCHAPTER C. Administration.

“Subchapter A—Tax Imposed

“Sec. 2601. Tax imposed.

“Sec. 2602. Amount of tax.

“Sec. 2603. Liability for tax.

“SEC. 2601. TAX IMPOSED.

26 USC 2601.

“A tax is hereby imposed on every generation-skipping transfer in the amount determined under section 2602.

“SEC. 2602. AMOUNT OF TAX.

26 USC 2602.

“(a) **GENERAL RULE.**—The amount of the tax imposed by section 2601 with respect to any transfer shall be the excess of—

“(1) a tentative tax computed in accordance with the rate schedule set forth in section 2001(c) (as in effect on the date of transfer) on the sum of— *Ante*, p. 1846.

“(A) the fair market value of the property transferred determined as of the date of transfer (or in the case of an election under subsection (d), as of the applicable valuation date prescribed by section 2032),

“(B) the aggregate fair market value (determined for purposes of this chapter) of all prior transfers of the deemed transferor to which this chapter applied,

“(C) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the deemed transferor before this transfer, and

“(D) if the deemed transferor has died at the same time as, or before, this transfer, the taxable estate of the deemed transferor, over

“(2) a tentative tax (similarly computed) on the sum of the amounts determined under subparagraphs (B), (C), and (D) of paragraph (1).

“(b) **MULTIPLE SIMULTANEOUS TRANSFERS.**—If two or more transfers which are taxable under section 2601 and which have the same deemed transferor occur by reason of the same event, the tax imposed by section 2601 on each such transfer shall be the amount which bears the same ratio to— *Supra*.

“(1) the amount of the tax which would be imposed by section 2601 if the aggregate of such transfers were a single transfer, as

“(2) the fair market value of the property transferred in such transfer bears to the aggregate fair market value of all property transferred in such transfers.

“(c) **DEDUCTIONS, CREDITS, ETC.**—

“(1) GENERAL RULE.—Except as otherwise provided in this subsection, no deduction, exclusion, exemption, or credit shall be allowed against the tax imposed by section 2601.

Ante, p. 1879.

“(2) CHARITABLE DEDUCTIONS ALLOWED.—The deduction under section 2055, 2106(a)(2), or 2522, whichever is appropriate, shall be allowed in determining the tax imposed by section 2601.

26 USC 2055,
2522.

“(3) UNUSED PORTION OF UNIFIED CREDIT.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the credit under section 2010(a) (relating to unified credit) which exceeds the sum of—

Ante, p. 1848.

Ante, p. 1846.

“(A) the tax imposed by section 2001, and

“(B) the taxes theretofore imposed by section 2601 with respect to this deemed transferor, shall be allowed as a credit against the tax imposed by section 2601. The amount of the credit allowed by the preceding sentence shall not exceed the amount of the tax imposed by section 2601.

“(4) CREDIT FOR TAX ON PRIOR TRANSFERS.—The credit under section 2013 (relating to credit for tax on prior transfers) shall be allowed against the tax imposed by section 2601. For purposes of the preceding sentence, section 2013 shall be applied as if so much of the property subject to tax under section 2601 as is not taken into account for purposes of determining the credit allowable by section 2013 with respect to the estate of the deemed transferor passed from the transferor (as defined in section 2013) to the deemed transferor.

“(5) COORDINATION WITH ESTATE TAX.—

“(A) ADJUSTMENTS TO MARITAL DEDUCTION.—If the generation-skipping transfer occurs at the same time as, or within 9 months after, the death of the deemed transferor, for purposes of section 2056 (relating to bequests, etc., to surviving spouse), the value of the gross estate of the deemed transferor shall be deemed to be increased by the amount of such transfer.

“(B) CERTAIN EXPENSES ATTRIBUTABLE TO GENERATION-SKIPPING TRANSFER.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, for purposes of this section, the amount taken into account with respect to such transfer shall be reduced—

“(i) in the case of a taxable termination, by any item referred to in section 2053 or 2054 to the extent that a deduction would have been allowable under such section for such item if the amount of the trust had been includible in the deemed transferor's gross estate and if the deemed transferor had died immediately before such transfer, or

“(ii) in the case of a taxable distribution, by any expense incurred in connection with the determination, collection, or refund of the tax imposed by section 2601 on such transfer.

“(C) CREDIT FOR STATE INHERITANCE TAX.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, there shall be allowed as a credit against the tax imposed by section 2601 an amount equal to that portion of the estate, inheritance, legacy, or succession tax actually paid to any State or the District of Columbia in respect of any property included in the genera-

tion-skipping transfer, but only to the extent of the lesser of—

“(i) that portion of such taxes which is levied on such transfer, or

“(ii) the excess of the limitation applicable under section 2011(b) if the adjusted taxable estate of the decedent had been increased by the amount of the transfer and all prior generation-skipping transfers to which this subparagraph applied which had the same deemed transferor, over the sum of the amount allowable as a credit under section 2011 with respect to the estate of the decedent plus the aggregate amounts allowable under this subparagraph with respect to such prior generation-skipping transfers.

“(d) ALTERNATE VALUATION.—

“(1) IN GENERAL.—In the case of—

“(A) 1 or more generation-skipping transfers from the same trust which have the same deemed transferor and which are taxable terminations occurring at the same time as the death of such deemed transferor; or

“(B) 1 or more generation-skipping transfers from the same trust with different deemed transferors—

“(i) which are taxable terminations occurring on the same day; and

“(ii) which would, but for section 2613(b)(2), have occurred at the same time as the death of the individuals who are the deemed transferors with respect to the transfers;

the trustee may elect to value all of the property transferred in such transfers in accordance with section 2032.

“(2) SPECIAL RULES.—If the trustee makes an election under paragraph (1) with respect to any generation-skipping transfer, section 2032 shall be applied by taking into account (in lieu of the date of the decedent's death) the following date:

“(A) in the case of any generation-skipping transfer described in paragraph (1)(A), the date of the death of the deemed transferor described in such paragraph, or

“(B) in the case of any generation-skipping transfer described in paragraph (1)(B), the date on which such transfer occurred.

“(e) TRANSFERS WITHIN 3 YEARS OF DEATH OF DEEMED TRANSFEROR.—Under regulations prescribed by the Secretary, the principles of section 2035 shall apply with respect to transfers made during the 3-year period ending on the date of the deemed transferor's death. In the case of any transfer to which this subsection applies, the amount of the tax imposed by this chapter shall be determined as if the transfer occurred after the death of the deemed transferor and appropriate adjustments shall be made with respect to the amount of any prior transfer which is taken into account under subparagraph (B) or (C) of subsection (a)(1).

“SEC. 2603. LIABILITY FOR TAX.

26 USC 2603.

“(a) PERSONAL LIABILITY.—

“(1) IN GENERAL.—If the tax imposed by section 2601 is not paid, when due then— *Ante*, p. 1879.

“(A) except to the extent provided in paragraph (2), the trustee shall be personally liable for any portion of such tax which is attributable to a taxable termination, and

“(B) the distributee of the property shall be personally liable for such tax to the extent provided in paragraph (3).
 “(2) LIMITATION OF PERSONAL LIABILITY OF TRUSTEE WHO RELIES ON CERTAIN INFORMATION FURNISHED BY THE SECRETARY.—

“(A) INFORMATION WITH RESPECT TO RATES.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the application to the transfer of rates of tax which exceeds the rates of tax furnished by the Secretary to the trustee as being the rates at which the transfer may reasonably be expected to be taxed.

“(B) AMOUNT OF REMAINING EXCLUSION.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the fact that—

“(i) the amount furnished by the Secretary to the trustee as being the amount of the exclusion for a transfer to a grandchild of the grantor of the trust which may reasonably be expected to remain with respect to the deemed transferor, is less than

“(ii) the amount of such exclusion remaining with respect to such deemed transferor.

“(3) LIMITATION ON PERSONAL LIABILITY OF DISTRIBUTE.—The distributee of the property shall be personally liable for the tax imposed by section 2601 only to the extent of an amount equal to the fair market value (determined as of the time of the distribution) of the property received by the distributee in the distribution.

“(b) LIEN.—The tax imposed by section 2601 on any transfer shall be a lien on the property transferred until the tax is paid in full or becomes unenforceable by reason of lapse of time.

“Subchapter B—Definitions and Special Rules

“Sec. 2611. Generation-skipping transfer.

“Sec. 2612. Deemed transferor.

“Sec. 2613. Other definitions.

“Sec. 2614. Special rules.

26 USC 2611.

“SEC. 2611. GENERATION-SKIPPING TRANSFER.

“(a) GENERATION-SKIPPING TRANSFER DEFINED.—For purposes of this chapter, the terms ‘generation-skipping transfer’ and ‘transfer’ mean any taxable distribution or taxable termination with respect to a generation-skipping trust or trust equivalent.

“(b) GENERATION-SKIPPING TRUST.—For purposes of this chapter, the term ‘generation-skipping trust’ means any trust having younger generation beneficiaries (within the meaning of section 2613(c)(1)) who are assigned to more than one generation.

“(c) ASCERTAINMENT OF GENERATION.—For purposes of this chapter, the generation to which any person (other than the grantor) belongs shall be determined in accordance with the following rules:

“(1) an individual who is a lineal descendent of a grandparent of the grantor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the grantor,

“(2) an individual who has been at any time married to a person described in paragraph (1) shall be assigned to the generation of the person so described and an individual who has been at any

Ante, p. 360.

Post, p. 1884.

time married to the grantor shall be assigned to the grantor's generation,

"(3) a relationship by the half blood shall be treated as a relationship by the whole blood,

"(4) a relationship by legal adoption shall be treated as a relationship by blood,

"(5) an individual who is not assigned to a generation by reason of the foregoing paragraphs shall be assigned to a generation on the basis of the date of such individual's birth, with—

"(A) an individual born not more than 12½ years after the date of the birth of the grantor assigned to the grantor's generation,

"(B) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the grantor assigned to the first generation younger than the grantor, and

"(C) similar rules for a new generation every 25 years,

"(6) an individual who, but for this paragraph, would be assigned to more than one generation shall be assigned to the youngest such generation, and

"(7) if any beneficiary of the trust is an estate or a trust, partnership, corporation, or other entity (other than an organization described in section 511(a)(2) and other than a charitable trust described in section 511(b)(2)), each individual having an indirect interest or power in the trust through such entity shall be treated as a beneficiary of the trust and shall be assigned to a generation under the foregoing provisions of this subsection.

"(d) GENERATION-SKIPPING TRUST EQUIVALENT.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'generation-skipping trust equivalent' means any arrangement which, although not a trust, has substantially the same effect as a generation-skipping trust.

"(2) EXAMPLES OF ARRANGEMENTS TO WHICH SUBSECTION RELATES.—Arrangements to be taken into account for purposes of determining whether or not paragraph (1) applies include (but are not limited to) arrangements involving life estates and remainders, estates for years, insurance and annuities, and split interests.

"(3) REFERENCES TO TRUST INCLUDE REFERENCES TO TRUST EQUIVALENTS.—Any reference in this chapter in respect of a generation-skipping trust shall include the appropriate reference in respect of a generation-skipping trust equivalent.

"SEC. 2612. DEEMED TRANSFEROR.

26 USC 2612.

"(a) GENERAL RULE.—For purposes of this chapter, the deemed transferor with respect to a transfer is—

"(1) except as provided in paragraph (2), the parent of the transferee of the property who is more closely related to the grantor of the trust than the other parent of such transferee (or if neither parent is related to such grantor, the parent having a closer affinity to the grantor), or

"(2) if the parent described in paragraph (1) is not a younger generation beneficiary of the trust but 1 or more ancestors of the transferee is a younger generation beneficiary related by blood or adoption to the grantor of the trust, the youngest of such ancestors.

"(b) DETERMINATION OF RELATIONSHIP.—For purposes of subsection (a), a parent related to the grantor of the trust by blood or adoption is more closely related than a parent related to such grantor by marriage.

26 USC 2613.

"SEC. 2613. OTHER DEFINITIONS.**"(a) TAXABLE DISTRIBUTION.**—For purposes of this chapter—

"(1) IN GENERAL.—The term 'taxable distribution' means any distribution which is not out of the income of the trust (within the meaning of section 643(b)) from a generation-skipping trust to any younger generation beneficiary who is assigned to a generation younger than the generation assignment of any other person who is a younger generation beneficiary. For purposes of the preceding sentence, an individual who at no time has had anything other than a future interest or future power (or both) in the trust shall not be considered as a younger generation beneficiary.

"(2) SOURCE OF DISTRIBUTION.—If, during the taxable year of the trust, there are distributions out of the income of the trust (within the meaning of section 643(b)) and out of other amounts, for purposes of paragraph (1) the distributions of such income shall be deemed to have been made to the beneficiaries (to the extent of the aggregate distributions made to each such beneficiary during such year) in descending order of generations, beginning with the beneficiaries assigned to the oldest generation.

"(3) PAYMENT OF TAX.—If any portion of the tax imposed by this chapter with respect to any transfer is paid out of the income or corpus of the trust, an amount equal to the portion so paid shall be deemed to be a generation-skipping transfer.

"(4) CERTAIN DISTRIBUTIONS EXCLUDED FROM TAX.—The term 'taxable distribution' does not include—

"(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by subsection (b) (6), and

"(B) any transfer to the extent such transfer is subject to tax imposed by chapter 11 or 12.

"(b) TAXABLE TERMINATION.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'taxable termination' means the termination (by death, lapse of time, exercise or nonexercise, or otherwise) of the interest or power in a generation-skipping trust of any younger generation beneficiary who is assigned to any generation older than the generation assignment of any other person who is a younger generation beneficiary of that trust. Such term does not include a termination of the interest or power of any person who at no time has had anything other than a future interest or future power (or both) in the trust.

"(2) TIME CERTAIN TERMINATIONS DEEMED TO OCCUR.—

"(A) WHERE 2 OR MORE BENEFICIARIES ARE ASSIGNED TO SAME GENERATION.—In any case where 2 or more younger generation beneficiaries of a trust are assigned to the same generation, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to each such beneficiary shall be treated as occurring at the time when the last such termination occurs.

"(B) SAME BENEFICIARY HAS MORE THAN 1 INTEREST OR POWER.—In any case where a younger generation beneficiary of a trust has both an interest and a power, or more than 1 interest or power, in the trust, except to the extent provided in regulations prescribed by the Secretary, the termination with respect to each such interest or power shall be treated as occurring at the time when the last such termination occurs.

"(C) UNUSUAL ORDER OF TERMINATION.—**"(i) IN GENERAL.**—If—

“(I) but for this subparagraph, there would have been a termination (determined after the application of subparagraphs (A) and (B)) of an interest or power of a younger generation beneficiary (hereinafter in this subparagraph referred to as the ‘younger beneficiary’), and

“(II) at the time such termination would have occurred, a beneficiary (hereinafter in this subparagraph referred to as the ‘older beneficiary’) of the trust assigned to a higher generation than the generation of the younger beneficiary has a present interest or power in the trust,

then, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to the younger beneficiary shall be treated as occurring at the time when the termination of the last present interest or power of the older beneficiary occurs.

“(ii) SPECIAL RULES.—If clause (i) applies with respect to any younger beneficiary—

“(I) this chapter shall be applied first to the termination of the interest or power of the older beneficiary as if such termination occurred before the termination of the power or interest of the younger beneficiary; and

“(II) the value of the property taken into account for purposes of determining the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the younger beneficiary shall be reduced by the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the older beneficiary.

“(D) SPECIAL RULE.—Subparagraphs (A) and (C) shall also apply where a person assigned to the same generation as, or a higher generation than, the person whose power or interest terminates has a present power or interest immediately after the termination and such power or interest arises as a result of such termination.

“(3) DEEMED TRANSFERREES OF CERTAIN TERMINATIONS.—Where, at the time of any termination, it is not clear who will be the transferee of any portion of the property transferred, except to the extent provided in regulations prescribed by the Secretary, such portion shall be deemed transferred pro rata to all beneficiaries of the trust in accordance with the amount which each of them would receive under a maximum exercise of discretion on their behalf. For purposes of the preceding sentence, where it is not clear whether discretion will be exercised per stirpes or per capita, it shall be presumed that the discretion will be exercised per stirpes.

“(4) TERMINATION OF POWER.—In the case of the termination of any power, the property transferred shall be deemed to be the property subject to the power immediately before the termination (determined without the application of paragraph (2)).

“(5) CERTAIN TERMINATIONS EXCLUDED FROM TAX.—The term ‘taxable termination’ does not include—

“(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by paragraph (6), and

26 USC 2001,
2501.

“(B) any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12.

“(6) \$250,000 LIMIT ON EXCLUSION OF TRANSFERS TO GRANDCHILDREN.—In the case of any deemed transferor, the maximum amount excluded from the terms ‘taxable distribution’ and ‘taxable termination’ by reason of provisions exempting from such terms transfers to the grandchildren of the grantor of the trust shall be \$250,000. The preceding sentence shall be applied to transfers from one or more trusts in the order in which such transfers are made or deemed made.

“(7) COORDINATION WITH SUBSECTION (a).—

“(A) TERMINATIONS TAKE PRECEDENCE OVER DISTRIBUTIONS.—If—

“(i) the death of an individual or any other occurrence is a taxable termination with respect to any property, and

“(ii) such occurrence also requires the distribution of part or all of such property in a distribution which would (but for this subparagraph) be a taxable distribution, then a taxable distribution shall be deemed not to have occurred with respect to the portion described in clause (i).

“(B) CERTAIN PRIOR TRANSFERS.—To the extent that—

“(i) the deemed transferor in any prior transfer of the property of the trust being transferred in this transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the deemed transferor in this transfer,

“(ii) the transferee in such prior transfer was assigned to the same generation as (or a higher generation than) the generation assignment of the transferee in this transfer, and

“(iii) such transfers do not have the effect of avoiding tax under this chapter with respect to any transfer, the terms ‘taxable termination’ and ‘taxable distribution’ do not include this later transfer.

“(c) YOUNGER GENERATION BENEFICIARY; BENEFICIARY.—For purposes of this chapter—

“(1) YOUNGER GENERATION BENEFICIARY.—The term ‘younger generation beneficiary’ means any beneficiary who is assigned to a generation younger than the grantor’s generation.

“(2) TIME FOR ASCERTAINING YOUNGER GENERATION BENEFICIARIES.—A person is a younger generation beneficiary of a trust with respect to any transfer only if such person was a younger generation beneficiary of the trust immediately before the transfer (or, in the case of a series of related transfers, only if such person was a younger generation beneficiary of the trust immediately before the first of such transfers).

“(3) BENEFICIARY.—The term ‘beneficiary’ means any person who has a present or future interest or power in the trust.

“(d) INTEREST OR POWER.—For purposes of this chapter—

“(1) INTEREST.—A person has an interest in a trust if such person—

“(A) has a right to receive income or corpus from the trust, or

“(B) is a permissible recipient of such income or corpus.

“(2) POWER.—The term ‘power’ means any power to establish or alter beneficial enjoyment of the corpus or income of the trust.

“(e) **LIMITED POWER TO APPOINT AMONG LINEAL DESCENDANTS OF GRANTOR NOT TAKEN INTO ACCOUNT IN CERTAIN CASES.**—For purposes of this chapter, if any individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual, then such individual shall be treated as not having any power in the trust.

“(f) **EFFECT OF ADOPTION.**—For purposes of this chapter, a relationship by legal adoption shall be treated as a relationship by blood.

“SEC. 2614. SPECIAL RULES.

26 USC 2614.

“(a) **BASIS ADJUSTMENT.**—If property is transferred to any person pursuant to a generation-skipping transfer which occurs before the death of the deemed transferor, the basis of such property in the hands of the transferee shall be increased (but not above the fair market value of such property) by an amount equal to that portion of the tax imposed by section 2601 with respect to the transfer which is attributable to the excess of the fair market value of such property over its adjusted basis immediately before the transfer. If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided by section 1023 without regard to subsection (d) thereof (relating to basis of property passing from a decedent dying after December 31, 1976).

Ante, p. 1872.

“(b) **NONRESIDENTS NOT CITIZENS OF THE UNITED STATES.**—If the deemed transferor of any transfer is, at the time of the transfer, a nonresident not a citizen of the United States and—

“(1) if the deemed transferor is alive at the time of the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 12, or

26 USC 2501.

“(2) if the deemed transferor has died at the same time as, or before, the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 11.

26 USC 2001.

“(c) **DISCLAIMERS.**—

“For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518.

“Subchapter C—Administration

“Sec. 2621. Administration.

“Sec. 2622. Regulations.

“SEC. 2621. ADMINISTRATION.

26 USC 2621.

“(a) **GENERAL RULE.**—Insofar as applicable and not inconsistent with the provisions of this chapter—

“(1) if the deemed transferor is not alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 11 or section 2001 are hereby made applicable in respect of this chapter or section 2601, as the case may be, and

Ante, p. 1846.

“(2) if the deemed transferor is alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 12 or section 2501 are hereby made applicable in respect of this chapter or section 2601, as the case may be.

26 USC 6001.

“(b) **SECTIONS 6166 AND 6166A NOT APPLICABLE.**—For purposes of this chapter, sections 6166 and 6166A (relating to extensions of time

Ante, p. 1862.

for payment of estate tax where estate consists largely of interest in closely held business) shall not apply.

“(c) RETURN REQUIREMENTS.—

Regulations.

“(1) IN GENERAL.—The Secretary shall prescribe by regulations the person who is required to make the return with respect to the tax imposed by this chapter and the time by which any such return must be filed. To the extent practicable, such regulations shall provide that—

“(A) the person who is required to make such return shall be—

“(i) in the case of a taxable distribution, the distributee, or

“(ii) in the case of a taxable termination, the trustee; and

“(B) the return shall be filed—

“(i) in the case of a generation-skipping transfer occurring before the death of the deemed transferor, on or before the 90th day after the close of the taxable year of the trust in which such transfer occurred, or

“(ii) in the case of a generation-skipping transfer occurring at the same time as, or after, the death of the deemed transferor, on or before the 90th day after the last day prescribed by law (including extensions) for filing the return of tax under chapter 11 with respect to the estate of the deemed transferor (or if later, the day which is 9 months after the day on which such generation-skipping transfer occurred).

Regulations.

“(2) INFORMATION RETURNS.—The Secretary may by regulations require the trustee to furnish the Secretary with such information as he determines to be necessary for purposes of this chapter.

26 USC 2622.

“SEC. 2622. REGULATIONS.

“The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including regulations providing the extent to which substantially separate and independent shares of different beneficiaries in the trust shall be treated as separate trusts.”

(b) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) CLERICAL CHANGE.—The table of chapters for subtitle B is amended by adding at the end thereof the following new item:

“CHAPTER 13. Tax on certain generation-skipping transfers.”

26 USC 2013.

(2) CREDIT FOR TAX ON PRIOR TRANSFERS.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

“(g) TREATMENT OF TAX IMPOSED ON CERTAIN GENERATION-SKIPPING TRANSFERS.—If any property was transferred to the decedent in a transfer which is taxable under section 2601 (relating to tax imposed on generation-skipping transfers) and if the deemed transferor (as defined in section 2612) is not alive at the time of such transfer, for purposes of this section—

“(1) such property shall be deemed to have passed to the decedent from the deemed transferor;

“(2) the tax payable under section 2601 on such transfer shall be treated as a Federal estate tax payable with respect to the estate of the deemed transferor; and

“(3) the amount of the taxable estate of the deemed transferor shall be increased by the value of such property as determined for purposes of the tax imposed by section 2601 on the transfer.”

(3) INCOME IN RESPECT OF A DECEDENT.—Subsection (c) of section 691 (relating to deduction for estate tax) is amended by adding at the end thereof the following new paragraph: 26 USC 691.

“(3) SPECIAL RULE FOR GENERATION-SKIPPING TRANSFERS.—For purposes of this section—

“(A) the tax imposed by section 2601 or any State inheritance tax described in section 2602(c) (5) (C) on any generation-skipping transfer shall be treated as a tax imposed by section 2001 on the estate of the deemed transferor (as defined in section 2612(a)); *Ante*, p. 1846.

“(B) any property transferred in such a transfer shall be treated as if it were included in the gross estate of the deemed transferor at the value of such property taken into account for purposes of the tax imposed by section 2601; and

“(C) under regulations prescribed by the secretary, any item of gross income subject to the tax imposed under section 2601 shall be treated as income described in subsection (a) if such item is not properly includible in the gross income of the trust on or before the date of the generation-skipping transfer (within the meaning of section 2611(a)) and if such transfer occurs at or after the death of the deemed transferor (as so defined).”

(4) SPECIAL RULES FOR GENERATION-SKIPPING TRANSFERS.—Section 303 is amended by adding at the end thereof the following new subsection: 26 USC 303.

“(d) SPECIAL RULES FOR GENERATION-SKIPPING TRANSFERS.—Under regulations prescribed by the Secretary, where stock in a corporation is subject to tax under section 2601 as a result of a generation-skipping transfer (within the meaning of section 2611(a)), which occurs at or after the death of the deemed transferor (within the meaning of section 2612)—

“(1) the stock shall be deemed to be included in the gross estate of the deemed transferor;

“(2) taxes of the kind referred to in subsection (a) (1) which are imposed because of the generation-skipping transfer shall be treated as imposed because of the deemed transferor's death (and for this purpose the tax imposed by section 2601 shall be treated as an estate tax) ;

“(3) the period of distribution shall be measured from the date of the generation-skipping transfer; and

“(4) the relationship of stock to the decedent's estate shall be measured with reference solely to the amount of the generation-skipping transfer.”

(c) EFFECTIVE DATES.—

26 USC 2601
note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a)) of the Internal Revenue Code of 1954) made after April 30, 1976.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any generation-skipping transfer—

(A) under a trust which was irrevocable on April 30, 1976, but only to the extent that the transfer is not made out of corpus added to the trust after April 30, 1976, or

(B) in the case of a decedent dying before January 1, 1982, pursuant to a will (or revocable trust) which was in existence on April 30, 1976, and was not amended at any time after that date in any respect which will result in the creation of, or increasing the amount of, any generation-skipping transfer. For purposes of subparagraph (B), if the decedent on April 30, 1976, was under a mental disability to change the disposition of his property, the period set forth in such subparagraph shall not expire before the date which is 2 years after the date on which he first regains his competence to dispose of such property.

(3) TRUST EQUIVALENTS.—For purposes of paragraph (2), in the case of a trust equivalent within the meaning of subsection (d) of section 2611 of the Internal Revenue Code of 1954, the provisions of such subsection (d) shall apply.

SEC. 2007. ORPHANS' EXCLUSION.

(a) GENERAL RULE.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

26 USC 2057.

"SEC. 2057. BEQUESTS, ETC., TO CERTAIN MINOR CHILDREN.

Ante, p. 1846.

"(a) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, if—

"(1) the decedent does not have a surviving spouse, and

"(2) the decedent is survived by a minor child who, immediately after the death of the decedent, has no known parent, then the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to such child, but only to the extent that such interest is included in determining the value of the gross estate.

"(b) LIMITATION.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) with respect to interests in property passing to any minor child shall not exceed an amount equal to \$5,000 multiplied by the excess of 21 over the age (in years) which such child has attained on the date of the decedent's death.

"(c) LIMITATION IN THE CASE OF LIFE ESTATE OR OTHER TERMINABLE INTEREST.—A deduction shall be allowed under this section with respect to any interest in property passing to a minor child only to the extent that a deduction would have been allowable under section 2056(b) if such interest had passed to a surviving spouse of the decedent. For purposes of this subsection, an interest shall not be treated as terminable solely because the property will pass to another person if the child dies before the youngest child of the decedent attains age 21.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MINOR CHILD.—The term 'minor child' means any child of the decedent who has not attained the age of 21 before the date of the decedent's death.

"(2) ADOPTED CHILDREN.—A relationship by legal adoption shall be treated as replacing a relationship by blood.

"(3) PROPERTY PASSING FROM THE DECEDENT.—The determination of whether an interest in property passes from the decedent to any person shall be made in accordance with section 2056(d)."

(b) CLERICAL AMENDMENT.—The table of sections for part IV of

Post, p. 1894.

subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

“Sec. 2057. Bequests, etc., to certain minor children.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976. 26 USC 2057 note.

SEC. 2008. ADMINISTRATIVE CHANGES.

(a) **FURNISHING OF STATEMENT EXPLAINING ESTATE OR GIFT VALUATION.**—

(1) **IN GENERAL.**—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

“SEC. 7517. FURNISHING ON REQUEST OF STATEMENT EXPLAINING ESTATE OR GIFT VALUATION. 26 USC 7517.”

“(a) **GENERAL RULE.**—If the Secretary makes a determination or a proposed determination of the value of an item of property for purposes of the tax imposed under chapter 11, 12, or 13, he shall furnish, on the written request of the executor, donor, or the person required to make the return of the tax imposed by chapter 13 (as the case may be), to such executor, donor, or person a written statement containing the material required by subsection (b). Such statement shall be furnished not later than 45 days after the later of the date of such request or the date of such determination or proposed determination. 26 USC 2001, 2501.

“(b) **CONTENTS OF STATEMENT.**—A statement required to be furnished under subsection (a) with respect to the value of an item of property shall—

“(1) explain the basis on which the valuation was determined or proposed,

“(2) set forth any computation used in arriving at such value, and

“(3) contain a copy of any expert appraisal made by or for the Secretary.

“(c) **EFFECT OF STATEMENT.**—Except to the extent otherwise provided by law, the value determined or proposed by the Secretary with respect to which a statement is furnished under this section, and the method used in arriving at such value, shall not be binding on the Secretary.”

(2) **CONFORMING AND CLERICAL AMENDMENTS.**—

(A) Section 2031 (defining gross estate) is amended by adding at the end thereof the following new subsection: 26 USC 2031.

“(c) **CROSS REFERENCE.**—

“For executor's right to be furnished on request a statement regarding any valuation made by the Secretary within the gross estate, see section 7517.”

(B) Section 2512 (relating to valuation of gifts) is amended by adding at the end thereof the following new subsection: 26 USC 2512.

“(c) **CROSS REFERENCE.**—

“For individual's right to be furnished on request a statement regarding any valuation made by the Secretary of a gift by that individual, see section 7517.”

(C) The table of sections for chapter 77 is amended by adding at the end thereof the following:

“Sec. 7517. Furnishing on request of statement explaining estate or gift valuation.”

26 USC 6075. (b) SPECIAL RULE FOR FILING RETURNS WHERE GIFTS IN CALENDAR QUARTER TOTAL \$25,000 OR LESS.—Subsection (b) of section 6075 relating to gift tax returns) is amended to read as follows:

“(b) GIFT TAX RETURNS.—

“(1) GENERAL RULE.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter.

“(2) SPECIAL RULE WHERE GIFTS IN A CALENDAR QUARTER TOTAL \$25,000 OR LESS.—If the total amount of taxable gifts made by a person during a calendar quarter is \$25,000 or less, the return under section 6019 for such quarter shall be filed on or before the 15th day of the second month after—

“(A) the close of the first subsequent calendar quarter in the calendar year in which the sum of—

“(i) the taxable gifts made during such subsequent quarter, plus

“(ii) all other taxable gifts made during the calendar year and for which a return has not yet been required to be filed under this subsection,

exceeds \$25,000, or

“(B) if a return is not required to be filed under subparagraph (A), the close of the fourth calendar quarter of the calendar year.

“(3) NONRESIDENTS NOT CITIZENS OF THE UNITED STATES.—In the case of a nonresident not a citizen of the United States, paragraph (2) shall be applied by substituting ‘\$12,500’ for ‘\$25,000’ each place it appears.”

(c) PUBLIC INDEX OF FILED TAX LIENS.—

(1) INITIAL FILING OF NOTICE.—

26 USC 6323.

(A) Section 6323(f) (relating to filing of notice of lien) is amended by adding at the end thereof the following new paragraph:

“(4) INDEX.—The notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in a public index at the district office of the Internal Revenue Service for the district in which the property subject to the lien is situated.”

(B) Paragraph (2) of section 6323(f) is amended by striking out “paragraph (1)” and inserting in lieu thereof “paragraphs (1) and (4)”.

(2) REFILING OF NOTICE.—Section 6323(g)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

“(A) if such notice of lien is refiled in the office in which the prior notice of lien was filed and the fact of refiling is entered and recorded in an index in accordance with subsection (f)(4); and ”.

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a)—

26 USC 7517
note.

26 USC 2001.

(A) insofar as they relate to the tax imposed under chapter 11 of the Internal Revenue Code of 1954, shall apply to the estates of decedents dying after December 31, 1976, and

26 USC 2501.

(B) insofar as they relate to the tax imposed under chapter 12 of such Code, shall apply to gifts made after December 31, 1976.

(2) The amendment made by subsection (b) shall apply to gifts made after December 31, 1976. 26 USC 6075 note.

(3) The amendment made by subsection (c) shall take effect— 26 USC 6323 note.

(A) in the case of liens filed before the date of the enactment of this Act, on the 270th day after such date of enactment, or

(B) in the case of liens filed on or after the date of enactment of this Act, on the 120th day after such date of enactment.

SEC. 2009. MISCELLANEOUS PROVISIONS.

(a) INCLUSION OF STOCK IN DECEDENT'S ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS.—Subsection (a) of section 2036 (relating to transfer with retained life estate) is amended by adding at the end thereof the following new sentence: 26 USC 2036.

“For purposes of paragraph (1), the retention of voting rights in retained stock shall be considered to be a retention of the enjoyment of such stock.”

(b) DISCLAIMERS.—

(1) AMENDMENT OF GIFT TAX PROVISIONS.—Subchapter B of chapter 12 (relating to transfers for purposes of the gift tax) is amended by adding at the end thereof the following new section:

“SEC. 2518. DISCLAIMERS.

26 USC 2518.

“(a) GENERAL RULE.—For purposes of this subtitle, if a person makes a qualified disclaimer with respect to any interest in property, this subtitle shall apply with respect to such interest as if the interest had never been transferred to such person.

“(b) QUALIFIED DISCLAIMER DEFINED.—For purposes of subsection (a), the term ‘qualified disclaimer’ means an irrevocable and unqualified refusal by a person to accept an interest in property but only if—

“(1) such refusal is in writing,

“(2) such writing is received by the transferor of the interest, his legal representative, or the holder of the legal title to the property to which the interest relates not later than the date which is 9 months after the later of—

“(A) the day on which the transfer creating the interest in such person is made, or

“(B) the day on which such person attains age 21,

“(3) such person has not accepted the interest or any of its benefits, and

“(4) as a result of such refusal, the interest passes to a person other than the person making the disclaimer (without any direction on the part of the person making the disclaimer).

“(c) OTHER RULES.—For purposes of subsection (a)—

“(1) DISCLAIMER OF UNDIVIDED PORTION OF INTEREST.—A disclaimer with respect to an undivided portion of an interest which meets the requirements of the preceding sentence shall be treated as a qualified disclaimer of such portion of the interest.

“(2) POWERS.—A power with respect to property shall be treated as an interest in such property.”

(2) AMENDMENT OF ESTATE TAX PROVISIONS.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by adding at the end thereof the following new section:

26 USC 2045.

"SEC. 2045. DISCLAIMERS.

"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518."

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subchapter B of chapter 12 is amended by adding at the end thereof the following:

"Sec. 2518. Disclaimers."

(B) The table of sections for part III of subchapter A of chapter 11 is amended by adding at the end thereof the following:

"Sec. 2045. Disclaimers."

26 USC 2041.

(4) TECHNICAL AND CONFORMING CHANGES.—

(A) Paragraph (2) of section 2041(a) (relating to release of general powers of appointment) is amended by striking out the second sentence thereof.

26 USC 2055.

(B) The first sentence of subsection (a) of section 2055 (relating to transfers for public, charitable, and religious uses) is amended by striking out "(including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made before the date prescribed for the filing of the estate tax return)".

(C) The second sentence of subsection (a) of section 2055 is amended—

(i) by striking out "an irrevocable" and inserting in lieu thereof "a qualified", and

(ii) by striking out "such irrevocable" and inserting in lieu thereof "such qualified".

26 USC 2056.

(D) Section 2056 (relating to bequests, etc., to surviving spouse) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(E) Subsection (a) of section 2056 is amended by striking out "subsections (b), (c), and (d)" and inserting in lieu thereof "subsections (b) and (c)".

26 USC 2514.

(F) Subsection (b) of section 2514 (relating to powers of appointment for purposes of the gift tax) is amended by striking out the second sentence thereof.

(c) CERTAIN RETIREMENT BENEFITS.—

26 USC 2039.

(1) **EXCLUSION FROM GROSS ESTATE OF INDIVIDUAL RETIREMENT ACCOUNTS, ETC.**—Section 2039 (relating to annuities) is amended by adding at the end thereof the following new subsection:

"(e) **EXCLUSION OF INDIVIDUAL RETIREMENT ACCOUNTS, ETC.**—Notwithstanding the provisions of this section or of any other provision of law, there shall be excluded from the value of the gross estate the value of an annuity receivable by any beneficiary (other than the executor) under—

"(1) an individual retirement account described in section 408(a),

"(2) an individual retirement annuity described in section 408(b), or

"(3) a retirement bond described in section 409(a).

If any payment to an account described in paragraph (1) or for an annuity described in paragraph (2) or a bond described in paragraph

(3) was not allowable as a deduction under section 219 and was not a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C), the preceding sentence shall not apply to that portion of the value of the amount receivable under such account, annuity, or bond (as the case may be) which bears the same ratio to the total value of the amount so receivable as the total amount which was paid to or for such account, annuity, or bond and which was not allowable as a deduction under section 219 and was not such a rollover contribution bears to the total amount paid to or for such account, annuity, or bond. For purposes of this subsection, the term ‘annuity’ means an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least 36 months after the date of the decedent’s death.” “Annuity.”

(2) EXCLUSION FROM GROSS ESTATE OF SELF-EMPLOYED PLANS.—

The fifth sentence of section 2039(c) (relating to exemption of annuities under certain trusts and plans) is amended to read as follows: “For purposes of this subsection, contributions or payments on behalf of the decedent while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than the decedent and, to the extent not so allowable, shall be considered to be made by the decedent.” 26 USC 2039.

(3) EXCLUSION INAPPLICABLE IN CASE OF LUMP SUM DISTRIBUTIONS.—The first sentence of subsection (c) of section 2039 (relating to exemption of annuities under certain trusts and plans) is amended by striking out “other payment receivable by any beneficiary” and inserting in lieu thereof “other payment (other than a lump sum distribution described in section 402(e)(4), determined without regard to the next to the last sentence of section 402(e)(4)(A)) receivable by any beneficiary”.

(4) GIFT TAX TREATMENT OF ELECTIONS UNDER CERTAIN RETIREMENT PLANS.—

(A) INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—

(i) Subsection (a) of section 2517 (relating to certain annuities under qualified plans) is amended by striking out “or” at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof “; or”, and by inserting after paragraph (4) the following new paragraph:

“(5) an individual retirement account described in section 408 (a) an individual retirement annuity described in section 408 (b), or a retirement bond described in section 409(a).” 26 USC 2517.

(ii) Subsection (b) of section 2517 (relating to transfers attributable to employee contributions) is amended by striking out “other than paragraph (4)” and inserting in lieu thereof “other than paragraphs (4) and (5)”.

(iii) Subsection (c) of section 2517 (defining employee) is amended by adding at the end thereof the following new sentence: “In the case of a retirement plan described in paragraph (5) of subsection (a), such term means the individual for whose benefit the plan was established.”

(B) SELF-EMPLOYED PLANS.—The last sentence of section 2517(b) (relating to transfers attributable to employee con-

tributions) is amended to read as follows: "For purposes of this subsection, contributions or payments on behalf of an individual while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) of subsection (a) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than such individual and, to the extent not so allowable, shall be considered to be made by such individual."

26 USC 2517.

(5) GIFT TAX TREATMENT OF CERTAIN COMMUNITY PROPERTY.—Section 2517 (relating to certain annuities under qualified plans) is amended by redesignating subsection (c) (as amended by paragraph (4)(A)(iii)) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXEMPTION OF CERTAIN ANNUITY INTERESTS CREATED BY COMMUNITY PROPERTY LAWS.—Notwithstanding any other provision of law, in the case of an employee on whose behalf contributions or payments are made—

"(1) by his employer or former employer under a trust or plan described in paragraph (1) or (2) of subsection (a), or toward the purchase of a contract described in paragraph (3) of subsection (a), which under subsection (b) are not considered as contributed by the employee, or

"(2) by the employee to a retirement plan described in paragraph (5) of subsection (a),

a transfer of benefits attributable to such contributions or payments shall, for purposes of this chapter, not be considered as a transfer by the spouse of the employee to the extent that the value of any interest of such spouse in such contributions or payments or in such trust or plan or such contract—

"(A) is attributable to such contribution or payments, and

"(B) arises solely by reason of such spouse's interest in community income under the community property laws of the State."

26 USC 642.

(d) INCOME TAX TREATMENT OF CERTAIN EXPENSES OF ESTATE.—Section 642(g) (relating to disallowance of double deductions) is amended by inserting after "shall not be allowed as a deduction" the following: "(or as an offset against the sales price of property in determining gain or loss)".

(e) EFFECTIVE DATES.—

26 USC 2036
note.

(1) FOR SUBSECTION (a).—The amendment made by subsection

(a) shall apply to transfers made after June 22, 1976.

26 USC 2518
note.

(2) FOR SUBSECTION (b).—The amendments made by subsection (b) shall apply with respect to transfers creating an interest in the person disclaiming made after December 31, 1976.

(3) FOR SUBSECTION (c).—

26 USC 2039
note.

(A) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall apply to the estates of decedents dying after December 31, 1976.

26 USC 2517
note.

(B) The amendments made by paragraphs (4) and (5) of subsection (c) shall apply to transfers made after December 31, 1976.

26 USC 642
note.

(4) FOR SUBSECTION (d).—The amendment made by subsection (d) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 2010. CREDIT AGAINST CERTAIN ESTATE TAXES

(a) **IN GENERAL.**—Subject to the provisions of subsections (b), (c), and (d), credit against the tax imposed by chapter 11 of the Internal Revenue Code of 1954 (relating to estate tax) with respect to the estate of LaVere Redfield shall be allowed by the Secretary of the Treasury or his delegate for the conveyance of real property located within the boundaries of the Toiyabe National Forest.

26 USC 2001.

(b) **AMOUNT OF CREDIT.**—The amount treated as a credit shall be equal to the fair market value of the real property transferred as of the valuation date used for purposes of the tax imposed (and interest thereon) by chapter 11 of the Internal Revenue Code of 1954.

(c) **DEED REQUIREMENTS.**—The provisions of this section shall apply only if the executrixes of the estate execute a deed (in accordance with the laws of the State in which such real estate is situated) transferring title to the United States which is satisfactory to the Attorney General or his designee.

(d) **ACCEPTANCE AS NATIONAL FOREST.**—The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(e) **INTEREST.**—Unless the Secretary of Agriculture determines and certifies to the Secretary of the Treasury that there has been an expeditious transfer of the real property under this section, no interest payable with respect to the tax imposed by chapter 11 of the Internal Revenue Code of 1954 shall be deemed to be waived by reason of the provisions of this section for any period before the date of such transfer.

(f) **EFFECTIVE DATE.**—The provisions of this section shall be effective on the date of the enactment of this Act.

TITLE XXI—MISCELLANEOUS PROVISIONS

SEC. 2101. TAX TREATMENT OF CERTAIN HOUSING ASSOCIATIONS.

(a) **GENERAL RULE.**—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

“PART VII—CERTAIN HOMEOWNERS ASSOCIATIONS

“Sec. 528. Certain homeowners associations.

“SEC. 528. CERTAIN HOMEOWNERS ASSOCIATIONS.

26 USC 528.

“(a) **GENERAL RULE.**—A homeowners association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

“(b) **TAX IMPOSED.**—

“(1) **IN GENERAL.**—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall consist of a normal tax and surtax computed as provided in section 11 as though the homeowners association were a corporation and as though the

26 USC 11.
Ante, p. 1606.

homeowners association taxable income were the taxable income referred to in section 11. For purposes of this subsection, the surtax exemption provided by section 11(d) shall not be allowed.

“(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year any homeowners association has a net capital gain, then in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

“(A) a partial tax, computed as provided by paragraph (1), on the homeowners association taxable income determined by reducing such income by the amount of such gain, and

“(B) a tax of 30 percent of such gain.

“(c) HOMEOWNERS ASSOCIATION DEFINED.—For purposes of this section—

“(1) HOMEOWNERS ASSOCIATION.—The term ‘homeowners association’ means an organization which is a condominium management association or a residential real estate management association if—

“(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

“(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from—

“(i) owners of residential units in the case of a condominium management association, or

“(ii) owners of residences or residential lots in the case of a residential real estate management association.

“(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property,

“(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

“(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

“(2) CONDOMINIUM MANAGEMENT ASSOCIATION.—The term ‘condominium management association’ means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project substantially all of the units of which are used as residences.

“(3) RESIDENTIAL REAL ESTATE MANAGEMENT ASSOCIATION.—The term ‘residential real estate management association’ means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

“(4) ASSOCIATION PROPERTY.—The term ‘association property’ means—

“(A) property held by the organization,

“(B) property commonly held by the members of the organization.

“(C) property within the organization privately held by the members of the organization, and

“(D) property owned by a governmental unit and used for the benefit of residents of such unit.

“(d) HOMEOWNERS ASSOCIATION TAXABLE INCOME DEFINED.—

“(1) TAXABLE INCOME DEFINED.—For purposes of this section, the homeowners association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

“(A) the gross income for the taxable year (excluding any exempt function income), over

“(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

“(2) MODIFICATIONS.—For purposes of this subsection—

“(A) there shall be allowed a specific deduction of \$100,

“(B) no net operating loss deduction shall be allowed under section 172, and

“(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

“(3) EXEMPT FUNCTION INCOME.—For purposes of this subsection, the term ‘exempt function income’ means any amount received as membership dues, fees, or assessments from—

“(A) owners of condominium housing units in the case of a condominium management association, or

“(B) owners of real property in the case of a residential real estate management association.”

(b) Section 216(c) (relating to treatment of property subject to depreciation) is amended by adding at the end thereof the following new sentence: “The preceding sentence shall not be construed to limit or deny a deduction for depreciation under 167(a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders.” 26 USC 216.

(c) REQUIREMENT OF RETURN.—Section 6012(a) (relating to persons required to make returns of income) is amended by striking out “and” at the end of paragraph (5), by inserting “and” at the end of paragraph (6), and by inserting after paragraph (6) the following new paragraph: 26 USC 6012.

“(7) Every homeowners association (within the meaning of section 528(c)(1)) which has homeowners association taxable income (within the meaning of section 528(d)) for the taxable year.” *Ante*, p. 1897.

(d) CLERICAL AMENDMENT.—The table of parts for subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

“Part VII. Certain homeowners associations.”

(e) EFFECTIVE DATE.—Except as provided in subsection (f) (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1973. 26 USC 528 note.

(f) CERTAIN STOCK OF COOPERATIVE HOUSING CORPORATIONS.—

(1) Section 216(b) is amended by adding at the end thereof the following new paragraph: 26 USC 216.

“(5) STOCK ACQUIRED THROUGH FORECLOSURE BY LENDING INSTITUTION.—If a bank or other lending institution acquires by foreclosure (or by instrument in lieu of foreclosure) the stock of a tenant-stockholder, and a lease or the right to occupy an apartment or house to which such stock is appurtenant, such bank or other lending institution shall be treated as a tenant-stockholder for a period not to exceed three years from the date of acquisition. The preceding sentence shall apply even though, by agreement with the cooperative housing corporation, the bank (or other lending institution) or its nominee may not occupy the house or apartment without the prior approval of such corporation.”

(2) The amendment made by paragraph (1) shall apply to stock acquired by banks or other lending institutions after the date of the enactment of this Act.

SEC. 2102. TREATMENT OF CERTAIN DISASTER PAYMENTS.

(a) GENERAL RULE.—Subsection (d) of section 451 (relating to special rule for crop insurance proceeds) is amended by inserting after the first sentence the following new sentence: “For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (1) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (2) the inability to plant crops because of such a natural disaster shall be treated as insurance proceeds received as a result of destruction or damage to crops.”

(b) TECHNICAL AMENDMENT.—The subsection heading for such subsection (d) is amended by striking out “Proceeds” and inserting in lieu thereof “Proceeds or Disaster Payments”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after December 31, 1973, in taxable years ending after such date.

SEC. 2103. TAX TREATMENT OF CERTAIN 1972 DISASTER LOSSES.

(a) APPLICATION OF SECTION.—This section shall apply to any individual—

(1) who was allowed a deduction under section 165 of the Internal Revenue Code of 1954 (relating to losses) for a loss attributable to a disaster occurring during calendar year 1972 which was determined by the President, under section 102 of the Disaster Relief Act of 1970, to warrant disaster assistance by the Federal Government,

(2) who in connection with such disaster—

(A) received income in the form of cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act, or

(B) received income in the form of compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster, and

(3) who elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to take the benefits of this section.

(b) EFFECT OF ELECTION.—In the case of any individual to whom this section applies—

26 USC 216
note.

26 USC 451.

26 USC 451
note.

26 USC 165
note.

15 USC 636.

75 Stat. 311.

(1) the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for the taxable year in which the income taken into account is received or accrued which is attributable to such income shall not exceed the additional tax under such chapter which would have been payable for the year in which the deduction for the loss was taken if such deduction had not been taken for such year, 26 USC 1.

(2) any amount of tax imposed by chapter 1 attributable to the income taken into account which, on October 1, 1975, was unpaid may be paid in 3 equal annual installments (with the first such installment due and payable on April 15, 1977), and

(3) no interest on any deficiency shall be payable for any period before April 16, 1977, to the extent such deficiency is attributable to the receipt of such compensation, and no interest on any installment referred to in paragraph (2) shall be payable for any period before the due date of such installment.

(c) **INCOME TAKEN INTO ACCOUNT.**—For purposes of this section, the income taken into account is—

(1) in the case of an individual described in subsection (a) (2)

(A), the amount of income (not in excess of \$5,000) attributable to the cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act received by reason of the disaster described in subsection (a) (1), or 15 USC 636.
19 USC 1961.

(2) in the case of an individual described in subsection (a) (2)

(B), the amount of compensation (not in excess of \$5,000) for the loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster described in subsection (a) (1).

(d) **PHASEOUT WHERE ADJUSTED GROSS INCOME EXCEEDS \$15,000.**—If for the taxable year for which the deduction for the loss was taken the individual's adjusted gross income exceeded \$15,000, the \$5,000 limit set forth in paragraph (1) or (2) of subsection (c) (whichever applies) shall be reduced by one dollar for each full dollar that such adjusted gross income exceeds \$15,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "\$7,500" for "\$15,000".

(e) **STATUTE OF LIMITATIONS.**—If refund or credit of any overpayment of income tax resulting from an election made under this section is prevented on the date of the enactment of this Act, or at any time within one year after such date, by the operation of any law, or rule of law, refund or credit of such overpayment (to the extent attributable to such election) may, nevertheless, be made or allowed if claim therefor is filed within one year after such date. If the taxpayer makes an election under this section and if assessment of any deficiency for any taxable year resulting from such election is prevented on the date of the enactment of this Act, or at any time within one year after such date, by the operation of any law or rule of law, such assessment (to the extent attributable to such election) may, nevertheless, be made if made within one year after such date.

SEC. 2104. TAX TREATMENT OF CERTAIN DEBTS OWED BY POLITICAL PARTIES, ETC., TO ACCRUAL BASIS TAXPAYERS.

(a) **IN GENERAL.**—Section 271 (relating to debts owed by political parties, etc.) is amended by adding at the end thereof the following new subsection: 26 USC 271.

“(c) **EXCEPTION.**—In the case of a taxpayer who uses an accrual method of accounting, subsection (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of the taxpayer’s trade or business if—

“(1) for the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and

“(2) the taxpayer made substantial continuing efforts to collect on the debt.”

26 USC 271
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

SEC. 2105. TAX-EXEMPT BONDS FOR STUDENT LOANS.

26 USC 103.

(a) **IN GENERAL.**—Section 103(a) (relating to interest on certain governmental obligations) is amended by striking out “or” at the end of paragraph (2), striking out the period at the end of paragraph (3) and inserting in lieu thereof “; or”, and by adding at the end thereof the following:

“(4) qualified scholarship funding bonds.”

(b) **DEFINITION OF QUALIFIED SCHOLARSHIP FUNDING BONDS.**—Section 103 is amended by redesignating subsection (f) as (g), and by inserting after subsection (e) the following new subsection:

“(f) **QUALIFIED SCHOLARSHIP FUNDING BONDS.**—For purposes of subsection (a), the term ‘qualified scholarship funding bonds’ means obligations issued by a corporation which—

“(1) is a corporation not for profit established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and

“(2) is organized at the request of a State or one or more political subdivisions thereof or is requested to exercise such power by one or more political subdivisions and required by its corporate charter and bylaws, or required by State law, to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the State or a political subdivision thereof.”

(c) **CONFORMING AMENDMENTS.**—

(1) Section 103(d) (relating to arbitrage bonds) is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

“(5) **STUDENT LOAN INCENTIVE PAYMENTS.**—Payments made by the Commissioner of Education pursuant to section 2 of the Emergency Insured Student Loan Act of 1969 are not to be taken into account, for purposes of subsection (d) (2) (A), in determining yields on student loan notes.”

(2) Section 103(d) (relating to arbitrage bonds) is amended by striking out “(a) (1)” each place it appears in paragraph (1) (including the heading) and paragraph (2) and inserting in lieu thereof “(a) (1) or (4)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section apply to obligations issued on or after the date of the enactment of this Act.

SEC. 2106. PERSONAL HOLDING COMPANY INCOME AMENDMENTS.

(a) **IN GENERAL.**—Section 543(a)(6) (relating to definition of personal holding company income) is amended to read as follows:

“(6) **USE OF CORPORATE PROPERTY BY SHAREHOLDER.**—

20 USC 1001
note.

20 USC 1078a.

26 USC 103
note.

26 USC 543.

“(A) Amounts received as compensation (however designated and from whomever received) for the use of, or the right to use, tangible property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property (whether such right is obtained directly from the corporation or by means of a sublease or other arrangement).

“(B) Subparagraph (A) shall apply only to a corporation which has personal holding company income in excess of 10 percent of its ordinary gross income.

“(C) For purposes of the limitation in subparagraph (B), personal holding company income shall be computed—

“(i) without regard to subparagraph (A) or paragraph (2),

“(ii) by excluding amounts received as compensation for the use of (or right to use) intangible property (other than mineral, oil, or gas royalties or copyright royalties) if a substantial part of the tangible property used in connection with such intangible property is owned by the corporation and all such tangible and intangible property is used in the active conduct of a trade or business by an individual or individuals described in subparagraph (A), and

“(iii) by including copyright royalties and adjusted income from mineral, oil, and gas royalties.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976. 26 USC 543 note.

SEC. 2107. WORK INCENTIVE PROGRAM EXPENSES.

(a) **INCREASE IN LIMITATION BASED ON AMOUNT OF TAX.**—

(1) Paragraph (2) of section 50A(a) (relating to limitation based on amount of tax) is amended by striking out “\$25,000” each place it appears and inserting in lieu thereof “\$50,000”. 26 USC 50A.

(2) Paragraph (4) of section 50A(a) (relating to married individuals) is amended—

(A) by striking out “\$12,500” and inserting in lieu thereof “\$25,000”, and

(B) by striking out “\$25,000” and inserting in lieu thereof “\$50,000”.

(3) Paragraph (5) of section 50A(a) (relating to controlled groups) is amended by striking out “\$25,000” each place it appears therein and inserting in lieu thereof “\$50,000”.

(4) Paragraph (3) of section 50B(e) is amended by striking out “\$25,000” each place it appears therein and inserting in lieu thereof “\$50,000”. 26 USC 50B.

(b) **REDUCTION OF PERIOD DURING WHICH DISCHARGE OF EMPLOYEE CAUSES RECAPTURE.**—Subparagraph (A) of section 50A(c) (1) (relating to work incentive program expenses) is amended— 26 USC 50A.

(1) by striking out “12 months” each place it appears and inserting in lieu thereof “90 days”,

(2) by striking out “12th calendar month” and inserting in lieu thereof “90th calendar day”, and

(3) by striking out “the calendar month” and inserting in lieu thereof “the day”.

26 USC 50A. (c) RECAPTURE NOT TO APPLY WHERE TERMINATION IS RESULT OF DECLINING BUSINESS.—Subparagraph (A) of section 50A(c) (2) (relating to certain terminations of employment) is amended—

(1) by striking out “or” at the end of clause (iii),

(2) by striking out the period at the end of clause (iv) and inserting in lieu thereof a comma and “or”, and

(3) by adding at the end thereof the following:

“(v) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.”

26 USC 50B. (d) EXTENSION OF WELFARE EMPLOYEE INCENTIVES.—Paragraph (2) of section 50B(a) (relating to definition of Federal welfare recipient employment incentive expenses) is amended by striking out “before July 1, 1976,” and inserting in lieu thereof “before January 1, 1980.”

(e) LIMITATION OF FEDERAL WELFARE RECIPIENT EMPLOYMENT INCENTIVE EXPENSES TO FIRST 12 MONTHS OF EMPLOYMENT.—Subparagraph (B) of section 50B(a) (1) is amended to read as follows:

“(B) the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive).”

(f) CERTIFICATION OF WELFARE RECIPIENT EMPLOYEES BY SECRETARY OF LABOR.—Subparagraph (A) of section 50B(g) (1) (relating to eligible employees) is amended by inserting “the Secretary of Labor or by” after “certified by”.

26 USC 6411. (g) TECHNICAL AMENDMENTS.—

(1) The second sentence of section 6411(a) (relating to application for adjustment) is amended by inserting “(or, in the case of a work incentive program carryback, to an investment credit carryback)” after “capital loss carryback”.

(2) The following provisions are each amended by inserting “, an investment credit carryback,” after “net operating loss carryback”:

26 USC 6501. (A) Section 6501(o).

26 USC 6511. (B) Section 6511(d) (7).

26 USC 6601. (C) Section 6601(d) (4).

26 USC 6611. (D) Section 6611(f) (4).

SEC. 2108. REPEAL OF EXCISE TAX ON LIGHT-DUTY TRUCK PARTS.

26 USC 6416. (a) IN GENERAL.—Section 6416(b) (2) (relating to special cases in which tax payments are considered overpayments) is amended—

(1) by striking “or” at the end of subparagraph (R);

(2) by striking the period at the end of subparagraph (S) and inserting in lieu thereof “; or”; and

(3) by adding at the end thereof the following new subparagraph:

“(T) in the case of any article taxable under section 4061 (b), sold on or in connection with the first retail sale of a light-duty truck, as described in section 4061(a) (2), if credit or refund of such tax is not available under any other provisions of law.”

26 USC 6416 note. (b) EFFECTIVE DATE.—The amendments made by this section shall apply to parts and accessories sold after the date of the enactment of this Act.

SEC. 2109. EXCLUSION FROM EXCISE TAX ON CERTAIN ARTICLES RESOLD AFTER MODIFICATION.

26 USC 4063. (a) IN GENERAL.—Section 4063 (relating to exemptions from excise tax on motor vehicles) is amended by adding at the end thereof the following new subsection:

“(d) **RESALE AFTER CERTAIN MODIFICATIONS.**—Under regulations prescribed by the Secretary, the tax imposed by section 4061 shall not apply to the resale of any article described in section 4061(a)(1) if before such resale such article was merely combined with any coupling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor.”

Regulations.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to the resale of any article on or after the date of the enactment of this Act.

26 USC 4063
note.

SEC. 2110. FRANCHISE TRANSFERS.

(a) **APPLICATION OF FRANCHISE RULES TO PARTNERSHIPS.**—Section 751(c) (relating to unrealized receivables of a partnership), as amended by this Act, is amended—

26 USC 751.

(1) by striking out “farm land (as defined in section 1252(a)),” and inserting in lieu thereof “farm land (as defined in section 1252(a)), franchises, trademarks, or trade names (referred to in section 1253(a)),” and

(2) by striking out “1252(a)” and inserting in lieu thereof “1252(a), 1253(a)”.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply to transactions described in sections 731, 736, 741, or 751 of the Internal Revenue Code of 1954 which occur after December 31, 1976, in taxable years ending after that date.

26 USC 751
note.

SEC. 2111. EMPLOYER'S DUTIES IN CONNECTION WITH THE RECORD-ING AND REPORTING OF TIPS.

26 USC 6041
note.

(a) **SUSPENSION OF RULINGS.**—Until January 1, 1979, the law with respect to the duty of an employer under section 6041(a) of the Internal Revenue Code of 1954 to report charge account tips of employees to the Internal Revenue Service (other than charge account tips included in statements furnished to the employer under section 6053(a) of such Code) shall be administered—

(1) without regard to Revenue Rulings 75-400 and 76-231, and

(2) in accordance with the manner in which such law was administered before the issuance of such rulings.

(b) **EFFECTIVE DATE.**—This section shall take effect on January 1, 1976.

SEC. 2112. TREATMENT OF CERTAIN POLLUTION CONTROL FACILITIES.

(a) **AVAILABILITY OF INVESTMENT CREDIT FOR CERTAIN POLLUTION CONTROL FACILITIES.**—

(1) **IN GENERAL.**—Section 48(a)(8) (relating to amortized property) is amended by striking out “169,” and by striking out the second sentence thereof.

26 USC 48.

(2) **APPLICABLE PERCENTAGE IN DETERMINING AMOUNT OF CREDIT.**—Section 46(c) (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

26 USC 46.

“(5) **APPLICABLE PERCENTAGE IN THE CASE OF CERTAIN POLLUTION CONTROL FACILITIES.**—Notwithstanding subsection (c)(2), in the case of property—

“(A) with respect to which an election under section 169 applies, and

(B) the useful life of which (determined without regard to section 169) is not less than 5 years, 50 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169.”

26 USC 169.

(b) DEFINITION OF CERTIFIED POLLUTION CONTROL FACILITIES.—Paragraph (1) of section 169(d) (defining certified pollution control facilities) is amended—

(1) by striking out “January 1, 1969,” and inserting in lieu thereof “January 1, 1976,”;

(2) by striking out “or storing” and inserting in lieu thereof “storing, or preventing the creation or emission of”; and

(3) by striking out “and” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “; and”, and by adding at the end thereof the following new subparagraph:

“(C) does not significantly—

“(i) increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

“(ii) alter the nature of the manufacturing or production process or facility.”

(c) EXTENSION OF AMORTIZATION.—Paragraph (4) of section 169(d) (relating to new identifiable treatment facility) is amended to read as follows:

“(4) NEW IDENTIFIABLE TREATMENT FACILITY.—

Definition.

“(A) IN GENERAL.—For purposes of paragraph (1), the term ‘new identifiable treatment facility’ includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which is property—

“(i) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

“(ii) acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date.

In applying this section in the case of property described in clause (i) there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1968.

“(B) CERTAIN PLANTS, ETC., PLACED IN OPERATION AFTER 1968.—In the case of any treatment facility used in connection with any plant or other property not in operation before January 1, 1969, the preceding sentence shall be applied by substituting December 31, 1975, for December 31, 1968.”

(d) EFFECTIVE DATES.—

26 USC 46 note.

(1) The amendments made by subsection (a) shall apply to—
(A) property acquired by the taxpayer after December 31, 1976, and

(B) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1976, (but only to the extent of the basis thereof attributable

to construction, reconstruction, or erection after such date), in taxable years beginning after such date.

(2) The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1975. Such amendments shall not apply in the case of any property with respect to which the amortization period under section 169 of the Internal Revenue Code of 1954 has begun before January 1, 1976. 26 USC 169 note.

SEC. 2113. CLARIFICATION OF STATUS OF CERTAIN FISHERMEN'S ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, etc.) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection: 26 USC 501.

“(g) DEFINITION OF AGRICULTURAL.—For purposes of subsection (c) (5), the term ‘agricultural’ includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.”

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years ending after December 31, 1975. 26 USC 501 note.

SEC. 2114. APPLICATION OF SECTION 6013(e) OF THE INTERNAL REVENUE CODE OF 1954.

(a) IN GENERAL.—Section 3 of the Act of January 12, 1971, Public Law 91-679 (84 Stat. 2064), is amended by adding at the end thereof the following new sentences: “Upon application by a taxpayer, the Secretary of the Treasury shall redetermine the liability for tax (including interest, penalties, and other amounts) of such taxpayer for taxable years beginning after December 31, 1961, and ending before January 13, 1971. The preceding sentence shall apply solely to a taxpayer to whom the application of the provisions of section 6013(e) of the Internal Revenue Code of 1954, as added by this Act, for such taxable years is prevented by the operation of res judicata, and such redetermination shall be made without regard to such rule of law. Any overpayment of tax by such taxpayer for such taxable years resulting from the redetermination made under this Act shall be refunded to such taxpayer.” 26 USC 6013 note.

(b) EFFECTIVE DATE.—The application permitted under the amendment made by subsection (a) of this section must be filed with the Secretary of the Treasury during the first calendar year beginning after the date of the enactment of this Act. 26 USC 6013 note.

SEC. 2115. AMENDMENTS TO RULES RELATING TO LIMITATION ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS, TRANSFERS OF OIL AND GAS PROPERTY WITHIN THE SAME CONTROLLED GROUP OR FAMILY.

(a) RETAILER EXCLUSION.—Paragraph (2) of section 613A(d) (relating to the retailer exclusion) is amended by inserting “(excluding bulk sales of such items to commercial or industrial users)” after “natural gas” where it first appears, and by adding at the end thereof the following: 26 USC 613A.

“Notwithstanding the preceding sentence this paragraph shall not apply in any case where the combined gross receipts from the sale of such oil, natural gas, or any product derived therefrom, for the taxable year of all retail outlets taken into account for purposes of this paragraph do not exceed \$5,000,000. For purposes of this paragraph, sales of oil, natural gas, or any product derived from oil or natural gas shall not include sales made of such items outside the United States, if no domestic production of the taxpayer

or a related person is exported during the taxable year or the immediately preceding taxable year.”

(b) **TRANSFER RULE.**—

(1) **IN GENERAL.**—Subparagraph (B) of section 613A(c)(9) (relating to exceptions to the transfer rule) is amended by striking out “or” at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof “, or”, and by adding at the end thereof the following new clause:

“(iii) a change of beneficiaries of a trust by reason of the death, birth, or adoption of any vested beneficiary if the transferee was a beneficiary of such trust or is a lineal descendant of the settlor or any other vested beneficiary of such trust, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust.”

(2) **CONFORMING AMENDMENTS.**—Paragraph (1) of section 613A(d) (relating to the limitation on percentage depletion based upon taxable income) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

“(A) any depletion on production from an oil or gas property which is subject to the provisions of subsection (c),”

(B) by striking out “and” at the end of subparagraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “, and”, and

(D) by adding at the end thereof the following new subparagraph:

“(D) in the case of a trust, any distributions to its beneficiary, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust.”

(c) **PARTNERSHIP RULES.**—

(1) Subparagraph (D) of section 613A(c)(7) (relating to the computation of depletion in the case of partnerships) is amended to read as follows:

“(D) **PARTNERSHIPS.**—In the case of a partnership, the depletion allowance shall be computed separately by the partners and not by the partnership. The partnership shall allocate to each partner his proportionate share of the adjusted basis of each partnership oil or gas property. The allocation

is to be made as of the later of the date of acquisition of the oil or gas property by the partnership, or January 1, 1975. A partner's proportionate share of the adjusted basis of partnership property shall be determined in accordance with his interest in partnership capital or income and, in the case of an agreement described in section 704(c)(2) (relating to effect of a partnership agreement on contributed property), such share shall be determined by taking such agreement into account. Each partner shall separately keep records of his share of the adjusted basis in each oil and gas property of the partnership, adjust such share of the adjusted basis for any depletion taken on such property, and use such adjusted basis each year in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the partnership. For purposes of section 732 (relating to basis of distributed property other than money), the partnership's adjusted basis in mineral property shall be an amount equal to the sum of the partners' adjusted basis in such property as determined under this paragraph."

(2) Subparagraph (G) of section 703(a)(2) (relating to deductions not allowed to a partnership) is amended by striking out "production subject to the provisions of section 613A(c)" and inserting in lieu thereof "wells". 26 USC 703.

(3) Subsection (a) of section 705 (relating to the determination of basis of a partner's interest in a partnership) is amended— 26 USC 705.

(A) by striking out "and" in paragraph (1)(C),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following:

"(3) decreased (but not below zero), by the amount of the partner's deduction for depletion under section 611 with respect to oil and gas wells."

(d) RELATED PERSON.—Paragraph (3) of section 613A(d) (relating to the definition of related person) is amended by adding at the end thereof the following: 26 USC 613A.

"For purposes of determining a significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be."

(e) TRANSFERS OF OIL AND GAS PROPERTY WITHIN THE SAME CONTROLLED GROUP OR FAMILY.—Subparagraph (B) of section 613A(c) (9) (relating to transfer of oil or gas property), as amended by subsection (b)(1), is amended—

(1) by striking out "or" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following:

"(iv) a transfer of property between corporations which are members of the same controlled group of corporations (as defined in paragraph (8)(D)(i)), or

"(v) a transfer of property between business entities which are under common control (within the meaning of paragraph (8)(B)) or between related persons in the same family (within the meaning of paragraph (8)(C)), or

“(vi) a transfer of property between a trust and related persons in the same family (within the meaning of paragraph (8) (C)) to the extent that the beneficiaries of that trust are and continue to be related persons in the family that transferred the property, and to the extent that the tentative oil quantity is allocated among the members of the family (within the meaning of paragraph (8) (C)).

Clause (iv) or (v) shall apply only so long as the tentative oil quantity determined under the table contained in paragraph (3) (B) is allocated under paragraph (8) between the transferor and transferee.”

26 USC 613A
note.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1975, and shall apply to taxable years ending after December 31, 1974.

SEC. 2116. IMPLEMENTATION OF FEDERAL-STATE TAX COLLECTION ACT OF 1972.

26 USC 6361
note.

(a) **ELECTION BY STATES TO PARTICIPATE.**—Section 204(b) (2) of the Federal-State Tax Collection Act of 1972 is amended to read as follows:

“(2) the first January 1 which is more than one year after the first date on which at least one State has notified the Secretary of the Treasury or his delegate of an election to enter into an agreement under section 6363 of such Code.”

(b) **ADJUSTMENTS TO QUALIFIED RESIDENT TAXES FOR PURPOSES OF FEDERAL COLLECTION OF STATE INDIVIDUAL INCOME TAXES.**—

26 USC 6362.

(1) **QUALIFIED RESIDENT TAX BASED ON TAXABLE INCOME.**—

(A) **REQUIRED ADJUSTMENTS.**—Section 6362(b) (1) (relating to required adjustments) is amended—

(i) by striking out “and” at the end of subparagraph (B);

(ii) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “, and”; and

(iii) by adding at the end thereof the following new subparagraph:

“(D) if a credit is allowed against such tax for State or local sales tax in accordance with paragraph (2) (C), by adding an amount equal to the amount of his deduction under section 164(a) (4) for such sales tax.”

(B) **PERMITTED ADJUSTMENTS.**—Section 6362(b) (2) (relating to permitted adjustments) is amended by adding at the end thereof the following new subparagraph:

“(C) A credit is allowed against such tax for all or a portion of any general sales tax imposed by the same State or a political subdivision thereof with respect to sales to the taxpayer or his dependents.”

(2) **QUALIFIED RESIDENT TAX WHICH IS A PERCENTAGE OF THE FEDERAL TAX.**—

(A) **PERMITTED ADJUSTMENTS.**—Section 6362(c) (3) (relating to permitted adjustments) is amended—

(i) by striking out “both” and inserting in lieu thereof “all”;

(ii) by striking out “and” at the end of subparagraph (A);

(iii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “, and”, and

(iv) by adding at the end thereof the following new subparagraph:

“(C) if a credit is allowed against such tax for State or local sales tax in accordance with paragraph (4) (B), the liability for tax is increased by the increase in such liability which would result from including as an item of income an amount equal to the amount of his deduction under section 164(a) (1) for such sales tax.”

(B) FURTHER PERMITTED ADJUSTMENTS.—Section 6362(c) 26 USC 6362.

(4) (relating to further permitted adjustments) is amended to read as follows:

“(4) FURTHER PERMITTED ADJUSTMENTS.—A tax which otherwise meets the requirements of paragraphs (1) and (2) shall not be deemed to fail to meet such requirements solely because it provides for one or both of the following adjustments:

“(A) A credit determined under rules prescribed by the Secretary is allowed against such tax for income tax paid to another State or a political subdivision thereof.

“(B) A credit is allowed against such tax for all or a portion of any general sales tax imposed by the same State or a political subdivision thereof with respect to sales to the taxpayer or his dependents.”

(c) PROHIBITION ON CHARGES FOR FEDERAL COLLECTION OF STATE INCOME TAXES.—Section 6361(a) (relating to general rules for Federal collection and administration of State individual income taxes) is amended by inserting, after the first sentence thereof, the following: “No fee or other charge shall be imposed upon any State for the collection or administration of the qualified State individual income taxes of such State or any other State.” 26 USC 6361.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 26 USC 6361 note.

SEC. 2117. CANCELLATION OF CERTAIN STUDENT LOANS. 26 USC 61 note.

(a) IN GENERAL.—In the case of an individual, no amount shall be included in gross income for purposes of section 61 of the Internal Revenue Code of 1954 by reason of the discharge of all or part of the indebtedness of the individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain geographical areas or for certain classes of employers.

(b) STUDENT LOAN.—For purposes of this section the term “student loan” means any loan to an individual to assist the individual in attending an educational organization described in section 170(b) (1) “Student loan.”

(A) (ii) of such Code—

(1) by the United States, or an instrumentality or agency thereof, or a State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia, or

(2) by any such educational organization pursuant to an agreement with the United States, or an instrumentality or agency thereof, or a State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia under which the funds from which the loan was made were provided to such educational organization.

26 USC 61 note.

(c) **EFFECTIVE DATE.**—The provisions of this section shall apply to discharges of indebtedness made before January 1, 1979.

SEC. 2118. TREATMENT OF GAIN OR LOSS ON SALES OR EXCHANGES IN CONNECTION WITH SIMULTANEOUS LIQUIDATION OF A PARENT AND SUBSIDIARY CORPORATION.

26 USC 337.

(a) **IN GENERAL.**—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding the following sentence at the end of subsection (c) (2) thereof:

“This paragraph shall not apply to a sale or exchange by a member of an affiliated group of corporations, as defined in section 1504(a) (but without regard to the exceptions contained in section 1504(b)), if each member of such group (including the common parent corporation) which receives, within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the corporation which made the sale or exchange, a distribution in complete liquidation from any other member of such group is itself completely liquidated within such 12-month period.”

26 USC 337 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

26 USC 61 note.

SEC. 2119. REGULATIONS RELATING TO TAX TREATMENT OF CERTAIN PREPUBLICATION EXPENDITURES OF PUBLISHERS.

(a) **GENERAL RULE.**—With respect to taxable years beginning on or before the date on which regulations dealing with prepublishing expenditures are issued after the date of the enactment of this Act, the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to any prepublishing expenditure shall be administered—

(1) without regard to Revenue Ruling 73-395, and

(2) in the manner in which such sections were applied consistently by the taxpayer to such expenditures before the date of the issuance of such revenue ruling.

(b) **REGULATIONS TO BE PROSPECTIVE ONLY.**—Any regulations issued after the date of the enactment of this Act which deal with the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to prepublishing expenditures shall apply only with respect to taxable years beginning after the date on which such regulations are issued.

(c) **PREPUBLICATION EXPENDITURES DEFINED.**—For purposes of this section, the term “publishing expenditures” means expenditures paid or incurred by the taxpayer (in connection with his trade or business of publishing) for the writing, editing, compiling, illustrating, designing, or other development or improvement of a book, teaching aid, or similar product.

SEC. 2120. CONTRIBUTIONS IN AID OF CONSTRUCTION FOR CERTAIN UTILITIES.

26 USC 118.

(a) **IN GENERAL.**—Section 118 (relating to contributions to the capital of a corporation) is amended by redesignating subsection (b) as subsection (c) and inserting immediately after subsection (a) the following new subsection:

“(b) **CONTRIBUTIONS IN AID OF CONSTRUCTION.**—

Definition.

“(1) **GENERAL RULE.**—For purposes of this section, the term ‘contribution to the capital of the taxpayer’ includes any amount

of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

“(A) such amount is a contribution in aid of construction,

“(B) where the contribution is in property which is other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

“(C) such amounts (or any property acquired or constructed with such amounts) are not included in the taxpayer's rate base for rate-making purposes.

“(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

“(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

“(i) which was the purpose motivating the contribution, and

“(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

“(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

“(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

“(3) DEFINITIONS.—For purposes of this section—

“(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term ‘contribution in aid of construction’ shall be defined by regulations prescribed by the Secretary; except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's property to a main water or sewer line and amounts paid as service charges for starting or stopping services).

“(B) PREDOMINANTLY.—The term ‘predominantly’ means 80 percent or more.

“(C) REGULATED PUBLIC UTILITY.—The term ‘regulated public utility’ has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

“(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, the expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.”

(b) CONFORMING AMENDMENT.—Section 362(c) (relating to special rule for contributions to capital) is amended by adding the following new paragraph immediately after paragraph (2):

26 USC 362.

“(3) EXCEPTION FOR CONTRIBUTIONS IN AID OF CONSTRUCTION.—The provisions of this subsection shall not apply to contributions in aid of construction to which section 118(b) applies.”

(c) EFFECTIVE DATE.—The amendments made by this section apply to contributions made after January 31, 1976.

Ante, p. 1912.
26 USC 118
note.

SEC. 2121. PROHIBITION OF DISCRIMINATORY STATE TAXES ON PRODUCTION AND CONSUMPTION OF ELECTRICITY.

(a) **IN GENERAL.**—The Act entitled “An Act relating to the power of the States to impose net income taxes on income derived from interstate commerce, and authorizing studies by congressional committees of matters pertaining thereto”, approved September 14, 1959 (73 Stat. 555; 15 U.S.C. 381 et seq.) is amended by striking out title II (relating to studies) and inserting in lieu thereof the following:

“TITLE II—DISCRIMINATORY TAXES

15 USC 391.

“Sec. 201. No State, or political subdivision thereof, may impose or assess a tax on or with respect to the generation or transmission of electricity which discriminates against out-of-State manufacturers, producers, wholesalers, retailers, or consumers of that electricity. For purposes of this section a tax is discriminatory if it results, either directly or indirectly, in a greater tax burden on electricity which is generated and transmitted in interstate commerce than on electricity which is generated and transmitted in intrastate commerce.”

15 USC 391
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect beginning June 30, 1974.

SEC. 2122. ALLOWANCE OF DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS FOR THE HANDICAPPED.

(a) **IN GENERAL.**—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

26 USC 190.

“SEC. 190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.

“(a) **TREATMENT AS EXPENSES.**—

“(1) **IN GENERAL.**—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

“(2) **ELECTION.**—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.**—The term ‘architectural and transportation barrier removal expenses’ means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

“(2) **QUALIFIED ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSE.**—The term ‘qualified architectural and transportation barrier removal expense’ means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Archi-

tectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

“(3) **HANDICAPPED INDIVIDUAL.**—The term ‘handicapped individual’ means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

“(c) **LIMITATION.**—The deduction allowed by subsection (a) for any taxable year shall not exceed \$25,000.

“(d) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section within 180 days after the date of the enactment of the Tax Reform Act of 1976.”

Ante, p. 1520.

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) The table of sections for such part VI is amended by adding at the end thereof the following new item:

“Sec. 190. Expenditures to remove architectural and transportation barriers to the handicapped and elderly.”

(2) Section 263(a)(1) (relating to capital expenditures) is amended— 26 USC 263.

(A) by striking out “or” at the end of subparagraph (D) thereof,

(B) by striking out the period at the end of subsection (E) thereof and inserting in lieu thereof a comma and the word “or”, and

(C) by adding at the end thereof the following new subparagraph:

“(F) expenditures for removal of architectural and transportation barriers to the handicapped and elderly which the taxpayer elects to deduct under section 190.”

(3) Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended— 26 USC 1245.

(A) by striking out “or 188” each place it appears in paragraphs (2) and (3)(D) and inserting in lieu thereof “188, or 190”,

(B) by striking out “or 185” in paragraph (2)(D) and inserting in lieu thereof “185, or 190”; and

(C) by adding at the end of paragraph (2) the following new sentence: “For purposes of this section, any deduction allowable under section 190 shall be treated as if it were a deduction allowable for amortization.”

(4) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out “or 188” and inserting in lieu thereof “188, or 190”. 26 USC 1250.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1976, and before January 1, 1980. 26 USC 190 note.

SEC. 2123. HIGH INCOME TAXPAYER REPORT.

26 USC 56 note.

The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth in three ways:

(1) by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income,

(2) by subtracting any investment expenses incurred in the production of such income to the extent of the investment income, and

(3) by making both of the adjustments referred to in paragraphs (1) and (2).

In any event these data are to include the number of such individuals with total income over \$200,000 who owe no Federal income tax (after credits) and the deductions, exclusions or credits used by them to avoid tax.

SEC. 2124. TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.

(a) AMORTIZATION OF REHABILITATION EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Part VI of subchapter B of chapter 1 (relating to itemized deductions) is amended by adding at the end thereof the following new section:

26 USC 191.

“SEC. 191. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES.

“(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

“(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

“(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

“(d) DEFINITIONS.—For purposes of this section—

“(1) CERTIFIED HISTORIC STRUCTURE.—The term ‘certified historic structure’ means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 which—

“(A) is listed in the National Register,

“(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

“(C) is located in an historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district.

“(2) AMORTIZABLE BASIS.—The term ‘amortizable basis’ means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

“(3) CERTIFIED REHABILITATION.—The term ‘certified rehabilitation’ means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

“(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

“(f) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

“(g) CROSS REFERENCES.—

“(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of ‘National Register’ and ‘Registered Historic District’, see section 470 et seq. of title 16 of the United States Code.

“(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245.”

(2) GAIN ON DISPOSITION.—Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by striking out “or 190” each place it appears and inserting in lieu thereof “190, or 191”. 26 USC 1245.

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting at the end thereof the following new item:

“Sec. 191. Amortization of certain rehabilitation expenditures for certified historic structures.”

(B) Section 642(f) (relating to amortization deductions of estates and trust) is amended by striking out “and 188” and inserting in lieu thereof “188, and 191”. 26 USC 642.

(C) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out “or 188” and inserting in lieu thereof “188, or 191”. 26 USC 1082.

26 USC 1250.

Ante, pp. 1914,
1916.
26 USC 191
note.

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 190" and inserting in lieu thereof "190 or 191".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to additions to capital account made after June 14, 1976 and before June 15, 1981.

(b) DEMOLITION.—

(1) DISALLOWANCE OF DEDUCTIONS.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

26 USC 280B.

"SEC. 280B. DEMOLITION OF CERTAIN HISTORIC STRUCTURES.

"(a) GENERAL RULE.—In the case of the demolition of a certified historic structure (as defined in section 191(d)(1))—

"(1) no deduction otherwise allowable under this chapter shall be allowed to the owner or lessee of such structure for—

"(A) any amount expended for such demolition, or

"(B) any loss sustained on account of such demolition; and

"(2) amounts described in paragraph (1) shall be treated as properly chargeable to capital account with respect to the land on which the demolished structure was located.

"(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a Registered Historic District shall be treated as a certified historic structure unless the Secretary of the Interior has certified, prior to the demolition of such structure, that such structure is not of historic significance to the district."

(2) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280B. Demolition of certain historic structures."

26 USC 280B
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to demolitions commencing after June 30, 1976, and before January 1, 1981.

(c) DEPRECIATION OF IMPROVEMENTS.—

26 USC 167.

(1) METHOD OF DEPRECIATION.—Section 167 (relating to depreciation) is amended by redesignating subsection (n) as (p), and by inserting after subsection (m) the following new subsection:

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (as defined in section 191(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in section 191(d)(3)) after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply,

"(B) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method.

"(2) EXCEPTION.—The limitations imposed by this subsection shall not apply to personal property."

26 USC 167
note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1975, and before January 1, 1981.

(d) SUBSTANTIALLY REHABILITATED PROPERTY.—

(1) Section 167 (relating to depreciation) is amended by insert-

ing after subsection (n) (as added by subsection (c) of this section) the following new subsection:

“(o) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

“(1) GENERAL RULE.—Pursuant to regulations prescribed by the Secretary, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property as though the original use of such property commenced with him. The election shall be effective with respect to the taxable year referred to in paragraph (2) and all succeeding taxable years.

“(2) SUBSTANTIALLY REHABILITATED PROPERTY.—For purposes of paragraph (1), the term ‘substantially rehabilitated historic property’ means any certified historic structure (as defined in section 191(d)(1)) with respect to which the additions to capital account for any certified rehabilitation (as defined in section 191(d)(3)) during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization with respect thereto, exceeds the greater of—

“(A) the adjusted basis of such property, or

“(B) \$5,000.

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of section 1250 (e)), whichever is later.”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to additions to capital account occurring after June 30, 1976, and before July 1, 1981.

Ante, p. 1916.

26 USC 167
note.

(e) TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—

(1) INCOME TAX DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 170(f)(3) (relating to charitable contributions) is amended—

26 USC 170.

(A) by striking out “or” at the end of subparagraph (B)(i),

(B) by striking out “property.” at the end of subparagraph (B)(ii) and inserting in lieu thereof “property,”

(C) by adding after clause (ii) of subparagraph (B) the following new clauses:

“(iii) a lease on, option to purchase, or easement with respect to real property of not less than 30 years’ duration granted to an organization described in subsection

(b)(1)(A) exclusively for conservation purposes, or

“(iv) a remainder interest in real property which is granted to an organization described in subsection (b)

(1)(A) exclusively for conservation purposes.” and

(D) by adding at the end thereof the following new subparagraph:

“(C) CONSERVATION PURPOSES DEFINED.—For purposes of subparagraph (B), the term ‘conservation purposes’ means—

“(i) the preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

“(ii) the preservation of historically important land areas or structures; or

“(iii) the protection of natural environmental systems.”.

(2) ESTATE TAX DEDUCTION FOR TRANSFER OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATIONS PURPOSES.—Section 2055(e)(2)

26 USC 2055.

(relating to deductions from gross estate) is amended by striking out “(other than a remainder interest in a personal residence or farm or an undivided portion of the decedent’s entire interest in property)” and inserting in lieu thereof “(other than an interest described in section 170(f)(3)(B))”.

Ante, p. 1919.

26 USC 2522.

(3) GIFT TAX DEDUCTION FOR TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 2522(c)(2) (relating to deductions from taxable gifts) is amended by striking out “(other than a remainder interest in a personal residence or farm or an undivided portion of the donor’s entire interest in property)” and inserting in lieu thereof “(other than an interest described in section 170(f)(3)(B))”.

26 USC 170
note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to contributions or transfers made after June 13, 1976, and before June 14, 1977.

SEC. 2125. AMENDMENT TO SUPPLEMENTAL SECURITY INCOME PROGRAM.

Ante, p. 782.

Section 1612(a)(2)(A)(iii) of the Social Security Act is amended by striking out “fifth month” and inserting in lieu thereof “seventeenth month”.

42 USC 1382a.

SEC. 2126. EXTENSION OF CARRY-OVER PERIOD FOR CUBAN EXPROPRIATION LOSSES

26 USC 172.

Subparagraph (D) of section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out “15” and inserting in lieu thereof “20”.

26 USC 1033.

SEC. 2127. OUTDOOR ADVERTISING DISPLAYS.

(a) IN GENERAL.—Section 1033(g) (relating to condemnation of real property held for productive use in trade or business or for investment) is amended by adding at the end thereof the following new paragraph:

“(3) ELECTION TO TREAT OUTDOOR ADVERTISING DISPLAYS AS REAL PROPERTY.—

“(A) IN GENERAL.—A taxpayer may elect, at such time and in such manner as the Secretary may prescribe, to treat property which constitutes an outdoor advertising display as real property for purposes of this chapter. The election provided by this subparagraph may not be made with respect to any property with respect to which the credit allowed by section 38 (relating to investment in certain depreciable property) is or has been claimed or with respect to which an election under section 179(a) (relating to additional first-year depreciation allowance for small business) is in effect.

“(B) ELECTION.—An election made under subparagraph (A) may not be revoked without the consent of the Secretary.

“(C) OUTDOOR ADVERTISING DISPLAY.—For purposes of this paragraph, the term ‘outdoor advertising display’ means a rigidly assembled sign, display, or device permanently affixed to the ground or permanently attached to a building or other inherently permanent structure constituting, or used for the display of, a commercial or other advertisement to the public.

“(D) CHARACTER OF REPLACEMENT PROPERTY.—For purposes of this subsection, an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display defined in subparagraph (C) (and treated by the taxpayer as real property) shall be

considered property of a like kind as the property converted without regard to whether the taxpayer's interest in the replacement property is the same kind of interest the taxpayer held in the converted property."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1970. 26 USC 1033 note.

SEC. 2128. TAX TREATMENT OF LARGE CIGARS.

(a) **IN GENERAL.**—So much of section 5701(a) (relating to the manner of taxation and the rates of tax on cigars) as follows paragraph (1) is amended to read as follows: 26 USC 5701.

"(2) **LARGE CIGARS.**—On cigars weighing more than 3 pounds per thousand, a tax equal to 8½ percent of the wholesale price, but not more than \$20 per thousand.

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale."

(b) **DEFINITION OF WHOLESALE PRICE.**—Section 5702 is amended by adding at the end thereof the following new subsection: 26 USC 5702.

"(m) **WHOLESALE PRICE.**—'Wholesale price' means the manufacturer's, or importer's, suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by this chapter or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Secretary."

(c) **RECORDKEEPING REQUIREMENT.**—Section 5741 is amended to read as follows:

"SEC. 5741. RECORDS TO BE MAINTAINED.

26 USC 5741.

"Every manufacturer of tobacco products or cigarette papers and tubes, every importer, and every export warehouse proprietor shall keep such records in such manner as the Secretary shall by regulation prescribe. The records required under this section shall be available for inspection by any internal revenue officer during business hours."

(d) **CLERICAL AMENDMENTS.**—

(1) The heading of subchapter D of chapter 52 is amended to read as follows:

"Subchapter D—Records of Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes, and Export Warehouse Proprietors".

(2) The table of subchapters for chapter 52 is amended by striking out the item relating to subchapter D and inserting in lieu thereof the following:

"SUBCHAPTER D. Records of manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors."

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first month which begins more than 90 days after the date of the enactment of this Act. 26 USC 5701 note.

SEC. 2129. TREATMENT OF GAIN FROM SALES OR EXCHANGES BETWEEN RELATED PARTIES.

(a) **IN GENERAL.**—Section 1239 (relating to gain from sale of certain property between spouses or between an individual and a controlled corporation) is amended to read as follows:

26 USC 1239

“SEC. 1239. GAIN FROM SALE OF DEPRECIABLE PROPERTY BETWEEN CERTAIN RELATED TAXPAYERS.

“(a) **TREATMENT OF GAIN AS ORDINARY INCOME.**—In the case of a sale or exchange of property, directly or indirectly, between related persons, any gain recognized to the transferor shall be treated as ordinary income if such property is, in the hands of the transferee, subject to the allowance for depreciation provided in section 167.

“(b) **RELATED PERSONS.**—For purposes of subsection (a), the term ‘related persons’ means—

“(1) a husband and wife,

“(2) an individual and a corporation 80 percent or more in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual, or

“(3) two or more corporations 80 percent or more in value of the outstanding stock of each of which is owned, directly or indirectly, by or for the same individual.

“(c) **CONSTRUCTIVE OWNERSHIP OF STOCK.**—Section 318 shall apply in determining the ownership of stock for purposes of this section, except that sections 318(a) (2) (C) and 318(a) (3) (C) shall be applied without regard to the 50-percent limitation contained therein.”

26 USC 1239
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act. For purposes of the preceding sentence, a sale or exchange is considered to have occurred on or before such date of enactment if such sale or exchange is made pursuant to a binding contract entered into on or before that date.

SEC. 2130. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES.

Subsection (c) of section 4 of the Act entitled an Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes, approved October 26, 1974 (88 Stat. 1457; Public Law 93-483), is amended by striking out “and 1975” and inserting in lieu thereof the following: “and 1975, and, in the case of a member of a uniformed service receiving training in programs described in subsection (a) during calendar year 1976, with respect to amounts received during calendar years 1976, 1977, 1978, and 1979.”

26 USC 117
note.

SEC. 2131. EXCHANGE FUNDS.

(a) **CORPORATE REORGANIZATIONS.**—Paragraph (2) of section 368(a) (special rules relating to definition of reorganization) is amended by adding at the end thereof the following new subparagraph:

26 USC 368.

“(F) **CERTAIN TRANSACTIONS INVOLVING 2 OR MORE INVESTMENT COMPANIES.**—

“(i) If immediately before a transaction described in paragraph (1) (other than subparagraph (E) thereof), 2 or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders)

unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of clause (ii).

“(ii) A corporation meets the requirements of this clause if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of 5 or fewer issuers. For purposes of this clause, all members of a controlled group of corporations (within the meaning of section 1563 (a)) shall be treated as one issuer.

26 USC 1563.

“(iii) For purposes of this subparagraph the term ‘investment company’ means a regulated investment company, a real estate investment trust, or a corporation more than 50 percent of the value of whose total assets are stock and securities and more than 80 percent of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary’s assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

“Investment company.”

“(iv) For purposes of this subparagraph, in determining total assets there shall be excluded cash and cash items (including receivables). Government securities, and, under regulations prescribed by the Secretary, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of clause (ii) or ceasing to be an investment company.

Total assets.

“(v) This subparagraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

“(vi) If an investment company which is not diversified within the meaning of clause (ii) acquires assets of another corporation, clause (i) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation. If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B) (hereafter referred to as the ‘actual acquisition’), clause (i) shall be applied to the shareholders and security holders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for a percentage of the value of the total outstanding stock of the other corporation equal to the percentage of the value of the total outstanding stock of such investment company which such shareholders own immediately after the actual acquisition. For purposes of section 1001, the deemed acquisition or exchange referred to in the two preceding sentences shall be treated as a sale or exchange of property by the corporation and by the shareholders and security holders to which clause (i) is applied.”

26 USC 721.

(b) **PARTNERSHIPS.**—Section 721 (relating to nonrecognition of gain or loss on transfers to partnerships) is amended to read as follows:

“SEC. 721. NONRECOGNITION OF GAIN OR LOSS ON CONTRIBUTION.

“(a) **GENERAL RULE.**—No gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.

“(b) **SPECIAL RULE.**—Subsection (a) shall not apply to gain realized on a transfer of property to a partnership which would be treated as an investment company (within the meaning of section 351) if the partnership were incorporated.”

26 USC 722,
723.

(c) **CONFORMING AMENDMENT.**—Sections 722 and 723 (relating to tax basis) are each amended by striking out “contribution.” and inserting in lieu thereof “contribution increased by the amount (if any) of gain recognized to the contributing partner at such time.”

26 USC 584.

(d) **COMMON TRUST FUNDS.**—Subsection (e) of section 584 (relating to admission to and withdrawal from a common trust fund) is amended by inserting after the first sentence the following new sentence: “The admission of a participant shall be treated with respect to the participant as the purchase of, or an exchange for, the participating interest.”

26 USC 683.

(e) **TRUSTS.**—

(1) **IN GENERAL.**—Section 683 (relating to applicability of provisions) is amended to read as follows:

“SEC. 683. USE OF TRUST AS AN EXCHANGE FUND.

“(a) **GENERAL RULE.**—Except as provided in subsection (b), if property is transferred to a trust in exchange for an interest in other trust property and if the trust would be an investment company (within the meaning of section 351) if it were a corporation, then gain shall be recognized to the transferor.

“(b) **EXCEPTION FOR POOLED INCOME FUNDS.**—Subsection (a) shall not apply to any transfer to a pooled income fund (within the meaning of section 642(c)(5)).”

(2) **CONFORMING AMENDMENT.**—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by striking out the item relating to section 683 and inserting in lieu thereof the following:

“Sec. 683. Use of trust as an exchange fund.”

(f) **EFFECTIVE DATES.**—

26 USC 368
note.

(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(2) The amendment made by subsection (a) shall not apply to transfers made in accordance with a ruling issued by the Internal Revenue Service before February 18, 1976, holding that a proposed transaction would be a reorganization described in paragraph (1) of section 368(a) of the Internal Revenue Code of 1954.

26 USC 721
note.

(3) Except as provided in paragraph (4), the amendments made by subsections (b) and (c) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(4) The amendments made by subsections (b) and (c) shall not apply to transfers to a partnership made on or before the 90th day after the date of the enactment of this Act if—

(A) either—

(i) a ruling request with respect to such transfers was filed with the Internal Revenue Service before March 27, 1976, or

(ii) a registration statement with respect to such transfers was filed with the Securities and Exchange Commission before March 27, 1976,

(B) the securities transferred were deposited on or before the 60th day after the date of the enactment of this Act, and

(C) either—

(i) the aggregate value (determined as of the close of the 60th day referred to in subparagraph (B), or, if earlier, the close of the deposit period) of the securities so transferred does not exceed \$100,000,000, or

(ii) the securities transferred were all on deposit on February 29, 1976, pursuant to a registration statement referred to in subparagraph (A) (ii).

(5) If no registration statement was required to be filed with the Securities and Exchange Commission with respect to the transfer of securities to any partnership, then paragraph (4) shall be applied to such transfers— 26 USC 721 note.

(A) as if paragraph (4) did not contain subparagraph (A) (ii) thereof, and

(B) by substituting “\$25,000,000” for “\$100,000,000” in subparagraph (C) (i) thereof.

(6) The amendments made by subsections (d) and (e) shall take effect on April 8, 1976, in taxable years ending on or after such date. 26 USC 584 note.

SEC. 2132. CONTRIBUTIONS OF CERTAIN GOVERNMENT PUBLICATIONS.

(a) IN GENERAL.—Section 1221 (relating to definition of capital asset) is amended by— 26 USC 1221.

(1) striking out “or” at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof “; or”, and

(3) adding after paragraph (5) the following new paragraph:

“(6) a publication of the United States Government (including the Congressional Record) which is received from the United States Government or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by—

“(A) a taxpayer who so received such publication, or

“(B) a taxpayer in whose hands the basis of such publication is determined, for purposes of determining gain from a sale or exchange, in whole or in part by reference to the basis of such publication in the hands of a taxpayer described in subparagraph (A).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales, exchanges, and contributions made after the date of enactment of this Act. 26 USC 1221 note.

SEC. 2133. TAX INCENTIVES STUDY.

(a) STUDY.—The Joint Committee on Taxation, in consultation with the Treasury, shall make a full and complete study and comparative analysis of the cost effectiveness of different kinds of tax incentives, including an analysis and study of the most effective way to use tax cuts in a period of business recession to provide a stimulus to the economy. 26 USC 8022 note.

(b) **REPORT.**—The Joint Committee on Taxation shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a final report of its study and investigation together with its recommendations, including recommendations for legislation, as it deems advisable.

(c) **REPORTING DATE.**—The final report called for in subsection (b) of this section shall be submitted no later than September 30, 1977.

SEC. 2134. PREPAID LEGAL EXPENSES.

(a) **EXCLUSION.**—Part III of subchapter B of chapter 1 is amended by inserting after section 119 the following new section:

26 USC 120.

“SEC. 120. AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

“(a) **EXCLUSION BY EMPLOYEE FOR CONTRIBUTIONS AND LEGAL SERVICES PROVIDED BY EMPLOYER.**—Gross income of an employee, his spouse, or his dependents, does not include—

“(1) amounts contributed by an employer on behalf of an employee, his spouse, or his dependents under a qualified group legal services plan (as defined in subsection (b)) ; or

“(2) the value of legal services provided, or amounts paid for legal services, under a qualified group legal services plan (as defined in subsection (b)) to, or with respect to, an employee, his spouse, or his dependents.

“(b) **QUALIFIED GROUP LEGAL SERVICES PLAN.**—For purposes of this section, a qualified group legal services plan is a separate written plan of an employer for the exclusive benefit of his employees or their spouses or dependents to provide such employees, spouses, or dependents with specified benefits consisting of personal legal services through prepayment of, or provision in advance for, legal fees in whole or in part by the employer, if the plan meets the requirements of subsection (c).

“(c) **REQUIREMENTS.**—

“(1) **DISCRIMINATION.**—The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, shareholders, self-employed individuals, or highly compensated.

“(2) **ELIGIBILITY.**—The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are described in paragraph (1). For purposes of this paragraph, there shall be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that group legal services plan benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

“(3) **CONTRIBUTION LIMITATION.**—Not more than 25 percent of the amounts contributed under the plan during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

“(4) **NOTIFICATION.**—The plan shall give notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of the status of a qualified group legal services plan.

“(5) CONTRIBUTIONS.—Amounts contributed under the plan shall be paid only (A) to insurance companies, or to organizations or persons that provide personal legal services, or indemnification against the cost of personal legal services, in exchange for a prepayment or payment of a premium, (B) to organizations or trusts described in section 501(c)(20), (C) to organizations described in section 501(c) which are permitted by that section to receive payments from an employer for support of one or more qualified group legal services plan or plans, except that such organizations shall pay or credit the contribution to an organization or trust described in section 501(c)(20), (D) as prepayments to providers of legal services under the plan, or (E) a combination of the above.

Infra.

“(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) SELF-EMPLOYED INDIVIDUAL; EMPLOYEE.—The term ‘self-employed individual’ means, and the term ‘employee’ includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

“(2) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).

“(3) ALLOCATIONS.—Allocations of amounts contributed under the plan shall be made in accordance with regulations prescribed by the Secretary and shall take into account the expected relative utilization of benefits to be provided from such contributions or plan assets and the manner in which any premium or other charge was developed.

“(4) DEPENDENT.—The term ‘dependent’ has the meaning given to it by section 152. “Dependent.”

“(5) EXCLUSIVE BENEFIT.—In the case of a plan to which contributions are made by more than one employer, in determining whether the plan is for the exclusive benefit of an employer’s employees or their spouses or dependents, the employees of any employer who maintains the plan shall be considered to be the employees of each employer who maintains the plan.

“(6) ATTRIBUTION RULES.—For purposes of this section—

“(A) ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)), and

“(B) the interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

“(7) TIME OF NOTICE TO SECRETARY.—A plan shall not be a qualified group legal services plan for any period prior to the time notification was provided to the Secretary in accordance with subsection (c)(4), if such notice is given after the time prescribed by the Secretary by regulations for giving such notice.”

(b) EXEMPT STATUS.—Section 501(c) (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph:

26 USC 501.

“(20) an organization or trust created or organized in the United States, the exclusive function of which is to form part of

Ante, p. 1926.

Ante, p. 1927.

a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in section 501(c)(20) merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan."

(c) **TECHNICAL AMENDMENT.**—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 119 the following new item:

"Sec. 120. Amounts received under qualified group legal services plans."

26 USC 120
note.

(d) **STUDY AND REPORT BY SECRETARIES OF TREASURY AND LABOR.**—

(1) A complete study and investigation with respect to the desirability and feasibility of continuing the exclusion from income of certain prepaid group legal services benefits under section 120 of the Internal Revenue Code of 1954 shall be made by the Secretary of Labor and by the Secretary of the Treasury.

(2) The Secretary of Labor and the Secretary of the Treasury shall report to the President and the Congress with respect to the study and investigation conducted under paragraph (1) not later than December 31, 1980.

Report to
President and
Congress.

26 USC 120
note.

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1976, and ending before January 1, 1982.

(2) **NOTICE REQUIREMENT.**—For purposes of section 120(d)(6) of the Internal Revenue Code of 1954, the time prescribed by the Secretary of the Treasury by regulations for giving the notice required by section 120(c)(4) of such Code shall not expire before the 90th day after the day on which regulations prescribed under such section 120(c)(4) first become final.

(3) **EXISTING PLANS.**—

(A) For purposes of section 120 of the Internal Revenue Code of 1954, a written group legal services plan which was in existence on June 4, 1976, shall be considered as satisfying the requirements of subsections (b) and (c) of such section 120 for the period ending with the compliance date (determined under subparagraph (B)).

(B) **COMPLIANCE DATE.**—For purposes of this paragraph, the term "compliance date" means—

(i) the date occurring 180 days after the date of the enactment of this Act, or

(ii) if later, in the case of a plan which is maintained pursuant to one or more agreements which the Secretary of Labor finds to be collective bargaining agreements, the earlier of December 31, 1981, or the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

SEC. 2135. SPECIAL RULE FOR CERTAIN CHARITABLE CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.

(a) **IN GENERAL.**—Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

26 USC 170.

"Compliance
date."

“(3) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.—

“(A) QUALIFIED CONTRIBUTIONS.—For purposes of this paragraph, a qualified contribution shall mean a charitable contribution of property described in paragraph (1) or (2) of section 1221, by a corporation (other than a corporation which is an electing small business corporation within the meaning of section 1371(b)) to an organization which is described in section 501(c)(3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), but only if—

26 USC 1221.

“(i) the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501 and the property is to be used by the donee solely for the care of the ill, the needy, or infants;

“(ii) the property is not transferred by the donee in exchange for money, other property, or services;

“(iii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (i) and (ii); and

“(iv) in the case where the property is subject to regulation under the Federal Food, Drug, and Cosmetic Act, as amended, such property must fully satisfy the applicable requirements of such Act and regulations promulgated thereunder on the date of transfer and for one hundred and eighty days prior thereto.

26 USC 301.

“(B) AMOUNT OF REDUCTION.—The reduction under paragraph (1)(A) for any qualified contribution (as defined in subparagraph (A)) shall be no greater than the sum of—

“(i) one-half of the amount computed under paragraph (1)(A) (computed without regard to this paragraph), and

“(ii) the amount (if any) by which the charitable contribution deduction under this section for any qualified contribution (computed by taking into account the amount determined in clause (i), but without regard to this clause) exceeds twice the basis of such property.

“(C) This paragraph shall not apply to so much of the amount of the gain described in paragraph (1)(A) which would be long-term capital gain but for the application of sections 617, 1245, 1250, 1251, or 1252.”

(b) EFFECTIVE DATE.—The amendment made by this section applies to charitable contributions made after the date of enactment of this Act, in taxable years ending after such date.

26 USC 170
note.

SEC. 2136. TAX TREATMENT OF THE GRANTOR OF OPTIONS OF STOCK, SECURITIES, AND COMMODITIES.

(a) Section 1234 (relating to options to buy or sell) is amended to read as follows:

26 USC 1234.

“SEC. 1234. OPTIONS TO BUY OR SELL.

“(a) TREATMENT OF GAIN OR LOSS IN THE CASE OF THE PURCHASER.—

“(1) GENERAL RULE.—Gain or loss attributable to the sale or exchange of, or loss attributable to failure to exercise, an option

to buy or sell property shall be considered gain or loss from the sale or exchange of property which has the same character as the property to which the option relates has in the hands of the taxpayer (or would have in the hands of the taxpayer if acquired by him).

“(2) SPECIAL RULE FOR LOSS ATTRIBUTABLE TO FAILURE TO EXERCISE OPTION.—For purposes of paragraph (1), if loss is attributable to failure to exercise an option, the option shall be deemed to have been sold or exchanged on the day it expired.

“(3) NONAPPLICATION OF SUBSECTION.—This subsection shall not apply to—

“(A) an option which constitutes property described in paragraph (1) of section 1221;

“(B) in the case of gain attributable to the sale or exchange of an option, any income derived in connection with such option which, without regard to this subsection, is treated as other than gain from the sale or exchange of a capital asset; and

“(C) a loss attributable to failure to exercise an option described in section 1233(c).

“(b) TREATMENT OF GRANTOR OF OPTION IN THE CASE OF STOCK, SECURITIES, OR COMMODITIES.—

“(1) GENERAL RULE.—In the case of the grantor of the option, gain or loss from any closing transaction with respect to, and gain on lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held not more than 6 months.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) CLOSING TRANSACTION.—The term ‘closing transaction’ means any termination of the taxpayer’s obligation under an option in property other than through the exercise or lapse of the option.

“(B) PROPERTY.—The term ‘property’ means stocks and securities (including stocks and securities dealt with on a ‘when issued’ basis), commodities, and commodity futures.

“(3) NONAPPLICATION OF SUBSECTION.—This subsection shall not apply to any option granted in the ordinary course of the taxpayer’s trade or business of granting options.”

26 USC 1234
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options granted after September 1, 1976.

SEC. 2137. EXEMPT-INTEREST DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

26 USC 852.

(a) GENERAL.—Section 852(a) (1) (relating to regulated investment companies) is amended to read as follows:

“(1) the deduction for dividends paid during the taxable year (as defined in section 561, but without regard to capital gain dividends) equals or exceeds the sum of—

“(A) 90 percent of its investment company taxable income for the taxable year determined without regard to subsection (b) (2) (D); and

“(B) 90 percent of the excess of (i) its interest income excludable from gross income under section 103(a) (1) over (ii) its deductions disallowed under sections 265, 171(a) (2), and”.

(b) DIVIDENDS PAID DEDUCTION.—Section 852(b) (2) (D) (relating to taxable income) is amended to read as follows:

“(D) the deduction for dividends paid (as defined in section 561) shall be allowed, but shall be computed without regard to capital gain dividends and exempt-interest dividends.”

(c) **EXEMPT-INTEREST DIVIDENDS.**—Section 852(b) (relating to method of taxation of regulated investment companies and shareholders) is amended by inserting after paragraph (4) the following new paragraph (5):

26 USC 852.

“(5) **EXEMPT-INTEREST DIVIDENDS.**—If, at the close of each quarter of its taxable year, at least 50 percent of the value (as defined in section 851(c)(4)) of the total assets of the regulated investment company consists of obligations described in section 103(a)(1), such company shall be qualified to pay exempt-interest dividends, as defined herein, to its shareholders.

“(A) **DEFINITION.**—An exempt-interest dividend means any dividend or part thereof (other than a capital gain dividend) paid by a regulated investment company and designated by it as an exempt-interest dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including exempt-interest dividends paid after the close of the taxable year as described in section 855) is greater than the excess of—

“(i) the amount of interest excludable from gross income under section 103(a)(1), over

“(ii) the amounts disallowed as deductions under sections 265 and 171(a)(2),

the portion of such distribution which shall constitute an exempt-interest dividend shall be only that proportion of the amount so designated as the amount of such excess for such taxable year bears to the amount so designated.

“(B) **TREATMENT OF EXEMPT-INTEREST DIVIDENDS BY SHAREHOLDERS.**—An exempt-interest dividend shall be treated by the shareholders for all purposes of this subtitle as an item of interest excludable from gross income under section 103(a)(1). Such purposes include but are not limited to—

“(i) the determination of gross income and taxable income,

“(ii) the determination of distributable net income under subchapter J,

“(iii) the allowance of, or calculation of the amount of, any credit or deduction, and

“(iv) the determination of the basis in the hands of any shareholder of any share of stock of the company.”

(d) **TECHNICAL AMENDMENT.**—Section 103(g), as redesignated by section 1305 of this Act (relating to exclusions from gross income of interest on certain government obligations) is amended by inserting after paragraph (23) the following new paragraph:

26 USC 103.

“(24) **Exempt-interest dividends.**—For treatment of exempt-interest dividends, see section 852(b)(5)(B).”

(e) **DISALLOWANCE OF DEDUCTIONS.**—Section 265 (relating to non-allowance of deductions for expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraphs:

26 USC 265.

“(3) CERTAIN REGULATED INVESTMENT COMPANIES.—In the case of a regulated investment company which distributes during the taxable year an exempt-interest dividend (including exempt-interest dividends paid after the close of the taxable year as described in section 855), that portion of any amount otherwise allowable as a deduction which the amount of the income of such company wholly exempt from taxes under this subtitle bears to the total of such exempt income and its gross income (excluding from gross income, for this purpose, capital gain net income, as defined in section 1222(9)).

Ante, p. 1787.

“(4) INTEREST RELATED TO EXEMPT-INTEREST DIVIDENDS.—Interest on indebtedness incurred or continued to purchase or carry shares of stock of a regulated investment company which during the taxable year of the holder thereof distributes exempt-interest dividends.”

26 USC 852
note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 2138. COMMON TRUST FUND TREATMENT OF CERTAIN CUSTODIAL ACCOUNTS.

26 USC 584.

(a) IN GENERAL.—Section 584(a) (1) (relating to definition of common trust fund) is amended to read as follows:

“(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity—

“(A) as a trustee, executor, administrator, or guardian, or
“(B) as a custodian of accounts—

“(i) which the Secretary determines are established pursuant to a State law which is substantially similar to the Uniform Gifts to Minors Act as published by the American Law Institute, and

“(ii) with respect to which the bank establishes, to the satisfaction of the Secretary, that it has duties and responsibilities similar to duties and responsibilities of a trustee or guardian; and”.

SEC. 2139. SUPPORT TEST FOR DEPENDENT CHILDREN OF DIVORCED ETC., PARENTS.

26 USC 152.

(a) IN GENERAL.—Section 152 (relating to definition of dependents) is amended by striking the word “all” in subsection (e) (2) (B) (i) thereof and inserting in lieu thereof “each”.

26 USC 152
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2140. INVOLUNTARY CONVERSION OF REAL PROPERTY.

26 USC 1033.

(a) IN GENERAL.—Section 1033(g) (relating to involuntary conversions), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

“(4) SPECIAL RULE.—In the case of a compulsory or involuntary conversion described in paragraph (1), subsection (a) (3)

(B) (i) shall be applied by substituting ‘3 years’ for ‘2 years’.”

26 USC 1033
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any disposition of converted property (within the meaning of section 1033(a) (2) of the Internal Revenue Code of 1954) after December 31, 1974, unless a condemnation proceeding with respect to such property began before the date of the enactment of this Act.

SEC. 2141. LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) **IN GENERAL.**—Section 451 (relating to general rules for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

26 USC 451.

“(e) **SPECIAL RULE FOR PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.**—

“(1) **IN GENERAL.**—In the case of income derived from the sale or exchange of livestock (other than livestock described in section 1231(b)(3)) in excess of the number the taxpayer would sell if he followed his usual business practices, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs if he establishes that, under his usual business practices, the sale or exchange would not have occurred in the taxable year in which it occurred if it were not for drought conditions, and that these drought conditions had resulted in the area being designated as eligible for assistance by the Federal Government.

“(2) **LIMITATION.**—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3)).”

(b) **EFFECTIVE DATE.**—The amendment made by this section applies to taxable years beginning after December 31, 1975.

26 USC 451 note.

Approved October 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-658 (Comm. on Ways and Means) and No. 94-1515 (Comm. of Conference).

SENATE REPORTS: No. 94-938 and No. 94-938, Pt. 2 (Comm. on Finance) and No. 94-1236 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 3, 4, considered and passed House.

Vol. 122 (1976): June 16-18, 21-25, 28-30, July 1, 20-23, 26-30, Aug. 3-6, considered and passed Senate, amended.

Sept. 16, House and Senate agreed to conference report, resolved amendments in disagreement.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 41 (1976): Oct. 4, Presidential statement.

Note.—A change has been made in the slip law format to provide for one-time preparation of copy to be used for publication of both slip laws and the United States Statutes at Large volumes. Comments from users are invited by the Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

Public Law 94-460 (H.R. 9019),
October 8, 1976, An Act to
amend title XIII of the Public
Health Service Act to revise and
extend the program for the estab-
lishment and expansion of health
maintenance organizations.

Public Law 94-460
94th Congress

An Act

To amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations.

Oct. 8, 1976

[H.R. 9019]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Maintenance Organization Amendments of 1976".

(b) Whenever in title I an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Health
Maintenance
Organization
Amendments
of 1976.

42 USC 300e
note.

42 USC 201
note.

TITLE I—AMENDMENTS TO TITLE XIII OF THE PUBLIC
HEALTH SERVICE ACT

SUPPLEMENTAL HEALTH SERVICES

SEC. 101. (a) Section 1301(b)(1) is amended by adding at the end the following: "A health maintenance organization may include a health service, defined as a supplemental health service by section 1302(2), in the basic health services provided its members for a basic health services payment described in the first sentence."

42 USC 300e.

(b) The first sentence of section 1301(b)(2) is amended by striking out "the organization shall provide" and all that follows in that sentence and substituting "the organization may provide to each of its members any of the health services which are included in supplemental health services (as defined in section 1302(2))."

42 USC 300e-1.

(c) Section 1301(b)(4) is amended by striking out "and supplemental health services in the case of the members who have contracted therefor" and substituting "and only such supplemental health services as members have contracted for".

STAFFING

SEC. 102. (a) (1) The first sentence of section 1301(b)(3) is amended (A) by striking out "or through" and by substituting "through", (B) by striking out "(or groups) or" and substituting "(or groups), through an", and (C) by inserting after "(or associations)" the following: "through health professionals who have contracted with the health maintenance organization for the provision of such services, or through any combination of such staff, medical group (or groups), individual practice association (or associations), or health professionals under contract with the organization".

42 USC 300e.

(2) Section 1301(b)(3) is amended by adding after the first sentence the following: "A health maintenance organization may also, during the thirty-six month period beginning with the month follow-

42 USC 300e-9.

42 USC 300e-1.

ing the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)), provide basic and supplemental health services through an entity which but for the requirement of section 1302(4)(C)(i) would be a medical group for purposes of this title. After the expiration of such period, the organization may provide basic or supplemental health services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity. A health maintenance organization may not, in any of its fiscal years, enter into contracts with health professionals or entities other than medical groups or individual practice associations if the amounts paid under such contracts for basic and supplemental health services exceed fifteen percent of the total amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services, or, if the health maintenance organization principally serves a rural area, thirty percent of such amount, except that this sentence does not apply to the entering into of contracts for the purchase of basic and supplemental health services through an entity which but for the requirements of section 1302(4)(C)(i) would be a medical group for purposes of this title. Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education)."

42 USC 300e-1.

(b) (1) Section 1302(4)(C) is amended (A) by striking out clause (iv), (B) by redesignating clause (v) as clause (iv), and (C) by inserting "and" at the end of clause (iii).

(2) Section 1302(5)(B) is amended (A) by striking out clause (i), and (B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

OPEN ENROLLMENT

42 USC 300e.

SEC. 103. (a) Section 1301(c) is amended by amending paragraph (4) to read as follows:

"(4) have an open enrollment period in accordance with the provisions of subsection (d);"

(b) Section 1301 is amended by adding at the end thereof the following:

"(d) (1) (A) A health maintenance organization which—

"(i) has for at least 5 years provided comprehensive health services on a prepaid basis, or

"(ii) has an enrollment of at least 50,000 members, shall have at least once during each fiscal year next following a fiscal year in which it did not have a financial deficit an open enrollment period (determined under subparagraph (B)) during which it shall accept individuals for membership in the order in which they apply for enrollment and, except as provided in paragraph (2), without regard to preexisting illness, medical condition, or degree of disability.

"(B) An open enrollment period for a health maintenance organization shall be the lesser of—

"(i) 30 days, or

"(ii) the number of days in which the organization enrolls a number of individuals at least equal to 3 percent of its total net increase in enrollment (if any) in the fiscal year preceding the fiscal year in which such period is held.

For the purpose of determining the total net increase in enrollment in a health maintenance organization, there shall not be included any individual who is enrolled in the organization through a group which had a contract for health care services with the health maintenance organization at the time that such health maintenance organization was determined to be a qualified health maintenance organization under section 1310.

42 USC 300e-9.

“(2) Notwithstanding the requirements of paragraph (1) a health maintenance organization shall not be required to enroll individuals who are confined to an institution because of chronic illness, permanent injury, or other infirmity which would cause economic impairment to the health maintenance organization if such individual were enrolled.

“(3) A health maintenance organization may not be required to make the effective date of benefits for individuals enrolled under this subsection less than 90 days after the date of enrollment.

“(4) The Secretary may waive the requirements of this subsection for a health maintenance organization which demonstrates that compliance with the provisions of this subsection would jeopardize its economic viability in its service area.”.

Waiver.

DEFINITION OF SERVICES

SEC. 104. (a) (1) Paragraph (1) (H) of section 1302 is amended to read as follows:

42 USC 300e-1.

“(H) preventive health services (including (i) immunizations, (ii) well-child care from birth, (iii) periodic health evaluations for adults, (iv) voluntary family planning services, (v) infertility services, and (vi) children's eye and ear examinations conducted to determine the need for vision and hearing correction).”.

(2) Paragraph (1) of section 1302 is amended by striking out “or podiatrist” each place it occurs and substituting “podiatrist, or other health care personnel”.

(b) Paragraph (2) of such section is amended—

(1) by striking out “under paragraph (1) (A) or (1) (H)” in subparagraphs (B) and (C);

(2) by striking out “and” at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and substituting “; and”, and by adding after subparagraph (F) the following:

“(G) other health services which are not included as basic health services and which have been approved by the Secretary for delivery as supplemental health services.”;

(3) by striking out “or podiatrist” each place it occurs and substituting “podiatrist, or other health care personnel”.

COMMUNITY RATING

SEC. 105. (a) (1) Section 1301(b) (1) is amended by adding at the end thereof the following new sentence: “In the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 1310(d)) provided comprehensive health services on a prepaid basis, the requirement of clause (C) shall not apply to such entity until the expiration of the forty-eight month period beginning with the month following the month in which the entity became such a qualified health organization.”.

42 USC 300e.

42 USC 300e.

(2) The last sentence of section 1301(b)(2) is amended by inserting before the period the following: "except that, in the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 1310(d)) provided comprehensive health services on a prepaid basis, the requirement of this sentence shall not apply to such entity during the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization".

42 USC 300e-9.

(within the meaning of section 1310(d)) provided comprehensive health services on a prepaid basis, the requirement of this sentence shall not apply to such entity during the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization".

42 USC 300e-5.

(3) Section 1306(b) is amended (A) by striking out "and" at the end of paragraph (6), (B) by redesignating paragraph (7) as paragraph (8), and (C) by inserting after paragraph (6) the following new paragraph:

"(7) the application contains such assurances as the Secretary may require respecting the intent and the ability of the applicant to meet the requirements of paragraphs (1) and (2) of section 1301(b) respecting the fixing of basic health services payments and supplemental health services payments under a community rating system; and"

42 USC 300e-1.

(b) Section 1302(8)(A) is amended by inserting "differences in marketing costs and" after "reflect".

(c) Subparagraph (B) of section 1302(8) is redesignated as subparagraph (C) and the following new subparagraph is inserted after subparagraph (A):

"(B) Nominal differentials in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers."

MEDICAL GROUP REQUIREMENTS

42 USC 300e-1.

SEC. 106. (a) Section 1302(4)(C) is amended by striking out "(i) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for a health maintenance organization" and substituting "(i) as their principal professional activity engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility for the delivery of health services to members of a health maintenance organization".

(b) Section 1302(4)(C)(ii) is amended by striking out "plan" and substituting "similar plan unrelated to the provision of specific health services".

(c) 1302(4)(C) (as amended by section 102(b)(1)) is amended by—

(1) striking "and" before "(iv)", and

(2) striking the period at the end of subparagraph (C) and substituting "; and (v) establish an arrangement whereby a member's enrollment status is not known to the health professional who provides health services to the member."

INCREASE IN LIMITS ON ASSISTANCE FOR FEASIBILITY SURVEYS, PLANNING, INITIAL DEVELOPMENT, AND INITIAL OPERATION

42 USC 300e-2.

SEC. 107. (a) Section 1303(e) is amended by striking "\$50,000" and substituting "\$75,000".

42 USC 300e-3.

(b) (1) Section 1304(f)(1)(A) is amended by striking "\$125,000" and substituting "\$200,000".

(2) Section 1304(f)(2)(A) is amended by inserting after "\$1,000,000" the following: "or, in the case of a project for a health maintenance organization which will provide services to an additional

service area (as defined by the Secretary) or which will provide services in one or more areas which are not contiguous, \$1,600,000".

(c) Section 1305(a) is amended by striking out "first thirty-six months" each place it occurs and substituting "first sixty months". 42 USC 300e-4.

LOAN GUARANTEES FOR PRIVATE ENTITIES

SEC. 108. (a) Section 1304(a)(2) is amended to read as follows: 42 USC 300e-3.

"(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

"(A) nonprofit private entities for planning projects for the establishment or expansion of health maintenance organizations, or

"(B) other private entities for such projects for health maintenance organizations which will serve medically underserved populations."

(b) Section 1304(b)(1)(B) is amended to read as follows:

"(B) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

"(i) nonprofit private entities for projects for the initial development of health maintenance organizations, or

"(ii) other private entities for such projects for health maintenance organizations which will serve medically underserved populations."

(c) Section 1305(a)(3) is amended to read as follows:

42 USC 300e-4.

"(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

"(A) nonprofit private health maintenance organizations for the amounts referred to in paragraph (1) or (2), or

"(B) other private health maintenance organizations for such amounts but only if the health maintenance organization will serve a medically underserved population."

(d) (1) Section 1304(d) is amended by adding at the end the following new sentence: "In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for projects for health maintenance organizations which will serve medically underserved populations."

Special consideration.

(2) Section 1305 is amended by adding at the end thereof the following new subsection:

"(f) In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for health maintenance organizations which will serve medically underserved populations."

MISCELLANEOUS AMENDMENTS

SEC. 109. (a) (1) Section 1305(a) is amended by striking out "in the period of" in paragraphs (1) and (2) and substituting "during a period not to exceed". 42 USC 300e-4.

(2) The last sentence of 1305(b)(1) is amended to read as follows: "In any fiscal year the amount disbursed to a health maintenance organization under this section (either directly by the Secretary or by an escrow agent under the terms of an escrow agreement or by a lender under a loan guaranteed under this section) may not exceed \$1,000,000."

Limitation.

42 USC 300e-6.

(b) (1) Section 1307(e) is amended—

(A) by inserting “for a private health maintenance organization (other than a private nonprofit health maintenance organization)” after “may be made”, and

(B) by inserting “for private health maintenance organizations (other than private nonprofit health maintenance organizations)” after “guaranteed”.

42 USC 300e-7.

(2) Section 1308(c) is amended by adding after paragraph (4) the following new paragraph:

“(5) Any reference in this title (other than in this subsection and in subsection (d)) to a loan guarantee under this title does not include a loan guarantee made under this subsection.”.

(c) (1) Section 1308(a)(1)(A) is amended by striking out “for similar loans” and substituting “for loans with similar maturities, terms, conditions, and security”.

(2) Section 1308(b)(2)(D) is amended by striking out “loans guaranteed under this title” and substituting “marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges”.

42 USC 300e-2.

(d) (1) The last sentence of section 1303(i) is amended—

(A) by striking “the fiscal year ending June 30, 1974, or June 30, 1975,” and substituting “any fiscal year”; and

(B) by striking “for projects other than those described in clause (1) of such sentence” and substituting “for any project, with priority being given to projects described in clause (1) of such sentence”.

42 USC 300e-3.

(2) The last sentence of section 1304(k)(1) is amended—

(A) by striking “the fiscal year ending June 30, 1974, or June 30, 1975,” and substituting “any fiscal year”; and

(B) by striking “for projects other than those described in clause (A) of such sentence” and substituting “for any project, with priority being given to projects described in clause (A) of such sentence”.

(3) The last sentence of section 1304(k)(2) is amended—

(A) by striking “the fiscal year ending June 30, 1974, or in either of the next two fiscal years” and substituting “any fiscal year”; and

(B) by striking “for projects other than those described in clause (A) of such sentence” and substituting “for any project, with priority being given to projects described in clause (A) of such sentence”.

(e) Section 1304(b)(2)(D) is amended by striking out “for such an organization” and substituting “who will engage in practice principally for the health maintenance organization”.

EMPLOYEE HEALTH BENEFITS PLANS

42 USC 300e-9.

SEC. 110. (a) Section 1310 is amended—

(1) by amending subsection (a) to read as follows:

“SEC. 1310. (a)(1) In accordance with regulations which the Secretary shall prescribe—

“(A) each employer—

“(i) which is now or hereafter required during any calendar quarter to pay its employees the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay its employees such wage but for section 13(a) of such Act), and

29 USC 206.

29 USC 213.

“(ii) which during such calendar quarter employed an average number of employees of not less than 25, shall include in any health benefits plan, and

“(B) any State and each political subdivision thereof which during any calendar quarter employed an average number of employees of not less than 25, as a condition of the payment to the State of funds under section 314(d), 317, 318, 1002, 1525, or 1613, shall include in any health benefits plan,

42 USC 246,
247b, 247c,
300a, 300m-4,
300p-3.

offered to such employees in the calendar year beginning after such calendar quarter the option of membership in qualified health maintenance organizations which are engaged in the provision of basic health services in health maintenance organization service areas in which at least 25 of such employees reside.

“(2) If any of the employees of an employer or State or political subdivision thereof described in paragraph (1) are represented by a collective bargaining representative or other employee representative designated or selected under any law, offer of membership in a qualified health maintenance organization required by paragraph (1) to be made in a health benefits plan offered to such employees (A) shall first be made to such collective bargaining representative or other employee representative, and (B) if such offer is accepted by such representative, shall then be made to each such employee.”;

(2) by amending paragraphs (1) and (2) of subsection (b) to read as follows:

“(1) one or more of such organizations provides basic health services (A) without the use of an individual practice association and (B) without the use of contracts (except for contracts for unusual or infrequently used services) with health professionals, and

“(2) one or more of such organizations provides basic health services through (A) an individual practice association (or associations), (B) health professionals who have contracted with the health maintenance organization for the provision of such services, or (C) a combination of such association (or associations) or health professionals under contract with the organization.”;

(3) by striking out the last sentence of subsection (c); and

(4) by adding after subsection (d) the following new subsections:

“(e) (1) Any employer who knowingly does not comply with one or more of the requirements of subsection (a) shall be subject to a civil penalty of not more than \$10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court.

Civil penalty.

“(2) In any proceeding by the Secretary to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary of a noncompliance.

“(3) In any civil action brought to review the assessment of a civil penalty assessed under this subsection, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty and in any civil action to collect such a civil

penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty unless in a prior civil action to review the assessment of such penalty the court held a trial de novo on such assessment.

“Employer.”

“(f) For purposes of this section, the term ‘employer’ does not include (1) the Government of the United States, the government of the District of Columbia or any territory or possession of the United States, a State or any political subdivision thereof, or any agency or instrumentality (including the United States Postal Service and Postal Rate Commission) of any of the foregoing; or (2) a church, convention or association of churches, or any organization operated, supervised or controlled by a church, convention or association of churches which organization (A) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, and (B) does not discriminate (i) in the employment, compensation, promotion, or termination of employment of any personnel, or (ii) in the extension of staff or other privileges to any physician or other health personnel, because such persons seek to obtain or obtained health care, or participate in providing health care, through a health maintenance organization.

26 USC 501.

Notice,
hearing.

“(g) If the Secretary, after reasonable notice and opportunity for hearing to a State, finds that it or any of its political subdivisions has failed to comply with one or more of the requirements of subsection (a), the Secretary shall terminate payments to such State under sections 314(d), 317, 318, 1002, 1525, and 1613 and notify the Governor of such State that further payments under such sections will not be made to the State until the Secretary is satisfied that there will no longer be any such failure to comply.

42 USC 246,
247b, 247c,
300a, 300m-4
300p-3.

“(h) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a qualified health maintenance organization within the meaning of subsection (d), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 1312(a).”

42 USC 300e-
11.

(b) Section 8902 of title 5, United States Code, relating to Federal employee health insurance, is amended by adding at the end thereof the following new subsection:

“Qualified
health
maintenance
carrier.”

“(1) The Commission shall contract under this chapter for a plan described in section 8903(4) of this title with any qualified health maintenance carrier which offers such a plan. For the purpose of this subsection, ‘qualified health maintenance carrier’ means any qualified carrier which is a qualified health maintenance organization within the meaning of section 1310(d)(1) of title XIII of the Public Health Service Act (42 U.S.C. 300c-9(d)).”

42 USC 300e-9.

ENFORCEMENT REQUIREMENTS

42 USC 300e-
11.

SEC. 111. (a) Section 1312(a) is amended by striking out all of the section following paragraph (3) and substituting the following: “the Secretary may take the action authorized by subsection (b).”

Determination,
notification.

(b) Section 1312(b) is amended to read as follows:
“(b) (1) If the Secretary makes, with respect to any entity which provided assurances to the Secretary under section 1310(d)(1), a determination described in subsection (a), the Secretary shall notify the entity in writing of the determination. Such notice shall specify the manner in which the entity has not complied with such assurances

and direct that the entity initiate (within 30 days of the date the notice is issued by the Secretary or within such longer period as the Secretary determines is reasonable) such action as may be necessary to bring (within such period as the Secretary shall prescribe) the entity into compliance with the assurances. If the entity fails to initiate corrective action within the period prescribed by the notice or fails to comply with the assurances within such period as the Secretary prescribes (A) the entity shall not be a qualified health maintenance organization for purposes of section 1310 until such date as the Secretary determines that it is in compliance with the assurances, and (B) each employer which has offered membership in the entity in compliance with section 1310, each lawfully recognized collective bargaining representative or other employee representative which represents the employees of each such employer, and the members of such entity shall be notified by the entity that the entity is not a qualified health maintenance organization for purposes of such section. The notice required by clause (B) of the preceding sentence shall contain, in readily understandable language, the reasons for the determination that the entity is not a qualified health maintenance organization. The Secretary shall publish in the Federal Register each determination referred to in this paragraph.

Notification.

42 USC 300e-9.

Publication in
Federal Register.

"(2) If the Secretary makes, with respect to an entity which has received a grant, contract, loan, or loan guarantee under this title, a determination described in subsection (a), the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with the assurances it furnished respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made in connection with its application under this title for the grant, contract, loan, or loan guarantee."

(c) Section 1312 is amended by adding at the end the following new subsection:

42 USC 300e-11.

"(c) The Secretary, acting through the Assistant Secretary for Health, shall administer subsections (a) and (b) in the Office of the Assistant Secretary for Health."

Administration.

HMO'S AND FEDERAL HEALTH BENEFITS PROGRAMS

SEC. 112. Section 1307(d) is amended by adding after and below paragraph (2) the following new sentence: "An entity which provides health services to a defined population on a prepaid basis and which has members who are enrolled under the health benefits program authorized by chapter 89 of title 5, United States Code, may be considered as a health maintenance organization for purposes of receiving assistance under this title if with respect to its other members it provides health services in accordance with section 1301(b) and is organized and operated in the manner prescribed by section 1301(c)."

42 USC 300e-6.

5 USC 8901
et seq.

42 USC 300e.

EXTENSIONS AND AUTHORIZATIONS

SEC. 113. (a) Section 1304(j) is amended (1) by striking out "September 30, 1976" and substituting "September 30, 1978", and (2) by striking out "September 30, 1977" and substituting "September 30, 1979".

42 USC 300e-3.

(b) Subsection (d) of section 1305 is amended to read as follows: "(d) No loan may be made or guaranteed under this section after September 30, 1980."

42 USC 300e-4.

42 USC 300e-8.

(c) Section 1309(a) is amended—

(1) by striking out “and” after “1975,”

(2) by inserting after “1976” the following: “, \$45,000,000 for the fiscal year ending September 30, 1977, and \$45,000,000 for the fiscal year ending September 30, 1978”,

(3) by striking out “ending June 30, 1977” and substituting “ending September 30, 1977”, and

(4) by striking out “\$85,000,000” the first time it occurs and substituting “\$40,000,000”, and by striking out “\$85,000,000” the second time it occurs and substituting “\$50,000,000”.

RESTRICTIVE STATE LAWS

42 USC 300e-10.
Digest.

SEC. 114. Section 1311 is amended by adding at the end the following new subsection:

“(c) The Secretary shall, within 6 months after the date of the enactment of this subsection, develop a digest of State laws, regulations, and practices pertaining to development, establishment, and operation of health maintenance organizations which shall be updated at least quarterly and relevant sections of which shall be provided to the Governor of each State annually. Such digest shall indicate which State laws, regulations, and practices appear to be inconsistent with the operation of this section. The Secretary shall also insure that appropriate legal consultative assistance is available to the States for the purpose of complying with the provisions of this section.”

PROGRAM EVALUATION BY THE COMPTROLLER GENERAL

42 USC 300e-13.

SEC. 115. So much of section 1314(a) as precedes paragraph (1) thereof is amended to read as follows:

“SEC. 1314. (a) The Comptroller General shall evaluate the operations of at least ten or one-half (whichever is greater) of the health maintenance organizations for which assistance was provided under sections 1303, 1304, and 1305, and which, by December 31, 1976, have been designated by the Secretary under section 1310(d) as qualified health maintenance organizations. The Comptroller General shall report to the Congress the results of the evaluation by June 30, 1978. Such report shall contain findings—”

42 USC 300e-2-300e-4.
Report to Congress.

ADMINISTRATION OF PROGRAMS

SEC. 116. Title XIII is amended by adding after section 1315 the following new section:

“ADMINISTRATION OF PROGRAM

42 USC 300e-15.
42 USC 300e-9, 300e-11.

“SEC. 1316. The Secretary shall administer this title (other than sections 1310 and 1312) through a single identifiable administrative unit of the Department.”

CONFORMING AMENDMENTS

42 USC 300n-1.

SEC. 117. (a) Section 1532(c) is amended by adding the following sentence at the end thereof: “The criteria established by any health systems agency or State Agency under paragraph (8) shall be consistent with the standards and procedures established by the Secretary

42 USC 300e-5.

under section 1306(c) of this Act.”

- (b) (1) Paragraph (6) of section 1302 is amended to read as follows: 42 USC 300e-1.
 “(6) The term ‘health systems agency’ means an entity which is
 designated in accordance with section 1515 of this Act.” “Health systems
 agency.” 42 USC 300l-4.
- (2) Paragraph (7) of section 1302 is amended by—
 (A) striking “section 314(a) State health planning agency
 whose section 314(a) plan” and substituting “State health plan-
 ning and development agency which”; and
 (B) striking “section 314(b) areawide health planning agency
 whose section 314(b) plan”, and substituting “health systems
 agency designated for a health service area which”.
- (3) Paragraph (1) of section 1303(b) is amended by striking “sec- 42 USC 300e-2.
 tion 314(b) areawide health planning agency (if any) whose section
 314(b) plan” and substituting “each health systems agency designated
 for a health service area which”.
- (4) Paragraph (1) of section 1304(c) is amended by striking “sec- 42 USC 300e-3.
 tion 314(b) areawide health planning agency (if any) whose section
 314(b) plan” and substituting “each health systems agency designated
 for a health service area which”.
- (5) Section (b) (5) of section 1306 is amended to read as follows: 42 USC 300e-5.
 “(5) each health systems agency designated for a health service
 area which covers (in whole or in part) the area to be served by
 the health maintenance organization for which such application
 is submitted.”
- (6) Subsection (c) of section 1306 is amended by striking “section
 314(b) areawide health planning agencies and section 314(a) State
 health planning agencies” and substituting “health systems agencies”.

EFFECTIVE DATES

SEC. 118. (a) Except as provided in subsection (b), the amend- 42 USC 300e
 ments made by this title shall take effect on the date of the enactment note.
 of this Act.

(b) (1) The amendments made by sections 101, 102, 103, 104, and 42 USC 300e-
 106 shall (A) apply with respect to grants, contracts, loans, and loan 2-300e-4.
 guarantees made under sections 1303, 1304, and 1305 of the Public 42 USC 300e-9.
 Health Service Act for fiscal years beginning after September 30, 42 USC 300e-
 1976, (B) apply with respect to health benefit plans offered under 11.
 section 1310 of such Act after such date, and (C) for purposes of sec- 42 USC 300e.

(2) Subsection (d) of section 1301 of the Public Health Service 42 USC 300e.
 Act (added by section 103(b) of this Act) shall take effect with
 respect to fiscal years of health maintenance organizations beginning
 on or after the date of the enactment of this Act.

(3) The amendments made by section 107 shall apply with respect
 to grants, contracts, loans, and loan guarantees made under sections
 1303, 1304, and 1305 of the Public Health Service Act for fiscal years
 beginning after September 30, 1976.

(4) The amendments made by sections 109(a) (1) and 109(c) shall
 apply with respect to loan guarantees made under section 1305 of the
 Public Health Service Act after September 30, 1976.

(5) The amendment made by section 109(e) shall apply with respect
 to projects assisted under section 1304 of the Public Health Service
 Act after September 30, 1976.

(6) The amendments made by paragraphs (1) and (2) of section
 110(a) shall apply with respect to calendar quarters which begin
 after the date of the enactment of this Act.

42 USC 300e-9.

(7) The amendments made by paragraphs (3) and (4) of section 110 shall apply with respect to failures of employers to comply with section 1310(a) of the Public Health Service Act after the date of the enactment of this Act.

42 USC 300e-11.

(8) The amendment made by section 111 shall apply with respect to determinations of the Secretary of Health, Education, and Welfare described in section 1312(a) of the Public Health Service Act and made after the date of the enactment of this Act.

TITLE II—AMENDMENTS TO SOCIAL SECURITY ACT

MEDICARE AMENDMENTS

42 USC 1395mm.

"Health maintenance organization."

SEC. 201. (a) Section 1876(b) of the Social Security Act is amended to read as follows:

"(b) (1) The term 'health maintenance organization' means a legal entity which provides health services on a prepayment basis to individuals enrolled with such organizations and which—

42 USC 1395x.

"(A) provides to its enrollees who are insured for benefits under parts A and B of this title or for benefits under part B alone, through institutions, entities, and persons meeting the applicable requirements of section 1861, all of the services and benefits covered under such parts (to the extent applicable under subparagraph (A) or (B) of subsection (a) (1)) which are available to individuals residing in the geographic area served by the organization;

42 USC 300e.

"Basic health services."

"(B) provides such services in the manner prescribed by section 1301(b) of the Public Health Service Act, except that solely for the purposes of this section—

"(i) the term 'basic health services' and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this title;

"(ii) the organization shall not be required to fix the basic health services payment under a community rating system;

"(iii) the additional nominal payments authorized by section 1301(b) (1) (D) of such Act shall not exceed the limits applicable under subsection (g) of this section; and

"(iv) payment for basic health services provided by the organization to its enrollees under this section or for services such enrollees receive other than through the organization shall be made as provided for by this title;

"(C) is organized and operated in the manner prescribed by section 1301(c) of the Public Health Service Act, except that solely for the purposes of this section—

"(i) the term 'basic health services' and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this title;

"(ii) the organization shall not be reimbursed for the cost of reinsurance except as permitted by subsection (i) of this section; and

"(iii) the organization shall have an open enrollment period as provided for in subsection (k) of this section.

Administration.

"(2) (A) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a 'health maintenance organization' within the meaning of paragraph (1), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the admin-

istration of such duties and functions shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.

“(B) Except as provided in subparagraph (A), the Secretary shall administer the provisions of this section through the Commissioner of Social Security.”

(b) Section 1876(h) of such Act is amended to read as follows:

“(h) (1) Except as provided in paragraph (2), each health maintenance organization with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who have not attained age 65.

“(2) The Secretary may waive the requirement imposed in paragraph (1) for a period of not more than three years from the date a health maintenance organization first enters into an agreement with the Secretary pursuant to subsection (i), but only for so long as such organization demonstrates to the satisfaction of the Secretary by the submission of its plan for each year that it is making continuous efforts and progress toward compliance with the provisions of paragraph (1) within such three-year period.”

(c) Section 1876(i) (6) (B) of such Act is amended by striking out “(other than those with respect to out-of-area services)” and inserting in lieu thereof “(other than costs with respect to out-of-area services and, in the case of an organization which has entered into a risk-sharing contract with the Secretary pursuant to paragraph (2) (A), the cost of providing any member with basic health services the aggregate value of which exceeds \$5,000 in any year)”.

(d) Section 1876 is amended by adding at the end thereof the following—

“(k) Each health maintenance organization with which the Secretary enters into a contract under this section shall have an open enrollment period at least every year under which it accepts up to the limits of its capacity and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment (unless to do so would result in failure to meet the requirements of subsection (h)) or would result in enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by such health maintenance organization.”

(e) The amendments made by this section shall be effective with respect to contracts entered into between the Secretary and health maintenance organizations under section 1876 of the Social Security Act on and after the first day of the first calendar month which begins more than 30 days after the date of enactment of this Act.

42 USC 300e-11.

42 USC 1395mm.

Waiver.

Open enrollment period.

Effective date.
42 USC 1395mm note.

MEDICAID AMENDMENTS

SEC. 202. (a) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(m) (1) (A) The term ‘health maintenance organization’ means a legal entity which provides health services to individuals enrolled in such organization and which—

“(i) provides to its enrollees who are eligible for benefits under this title the services and benefits described in paragraphs (1), (2), (3), (4) (C), and (5) of section 1905, and, to the extent required by section 1902(a) (13) (A) (ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a);

42 USC 1396b.

“Health maintenance organization.”

42 USC 1396d.
42 USC 1396a.

"Basic health services."

42 USC 300e.

42 USC 1396d.

42 USC 1396a.

"(ii) provides such services and benefits in the manner prescribed in section 1301(b) of the Public Health Service Act (except that, solely for purposes of this paragraph, the term 'basic health services' and references thereto, when employed in such section, shall be deemed to refer to the services and benefits described in paragraphs (1), (2), (3), (4) (C), and (5) of section 1905(a), and, to the extent required by section 1902(a) (13) (A) (ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905 (a)); and

"(iii) is organized and operated in the manner prescribed by section 1301(c) of the Public Health Service Act (except that solely for purposes of this paragraph, the term 'basic health services' and references thereto, when employed in such section shall be deemed to refer to the services and benefits described in section 1905 (a) (1), (2), (3), (4) (C), and (5), and to the extent required by section 1902(a) (13) (A) (ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a)).

Administration.

"(B) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a health maintenance organization within the meaning of subparagraph (A), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.

42 USC 300e-11.

"(2) (A) Except as provided in subparagraphs (B) and (C), no payment shall be made under this title to a State with respect to expenditures incurred by it for payment for services provided by any entity—

"(i) which is responsible for the provision of—

"(I) inpatient hospital services and any other service described in paragraph (2), (3), (4), (5), or (7) of section 1905(a), or

"(II) any three or more of the services described in such paragraphs,

when payment for such services is determined under a prepaid capitation risk basis or under any other risk basis;

"(ii) which the Secretary (or the State as authorized by paragraph (3)) has not determined to be a health maintenance organization as defined in paragraph (1); and

"(iii) more than one-half of the membership of which consists of individuals who are insured under parts A and B of title XVIII or recipients of benefits under this title.

"(B) Subparagraph (A) does not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services provided by an entity which—

"(i) (I) received a grant of at least \$100,000 in the fiscal year ending June 30, 1976, under section 319(d) (1) (A) or 330(d) (1) of the Public Health Service Act, and (II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title has been the recipient of a grant under either such section; and

42 USC 247d, 254c.

“(II) provides to its enrollees, on a prepaid capitation risk basis or on any other risk basis, all of the services and benefits described in paragraphs (1), (2), (3), (4) (C), and (5) of section 1905(a) and, to the extent required by section 1902(a) (13) (A) (ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of such section; or

42 USC 1396d.

42 USC 1396a.

“(ii) is a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission) —

“(I) which received in the fiscal year ending June 30, 1976, at least \$100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

40 USC app. 1.

“(II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services under a contract (initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract) with a State agency under this title on a prepaid capitation risk basis or on any other risk basis; or

“(iii) which has contracted with the single State agency for the provision of services (but not including inpatient hospital services) to persons eligible under this title on a prepaid risk basis prior to 1970.

“(C) Subparagraph (A) (iii) shall not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services by an entity during the three-year period beginning on the date of enactment of this subsection or beginning on the date the entity enters into a contract with the State under this title for the provision of health services on a prepaid risk basis, whichever occurs later, but only if the entity demonstrates to the satisfaction of the Secretary by the submission of plans for each year of such three-year period that it is making continuous efforts and progress toward achieving compliance with subparagraph (A) (iii).

“(3) A State may, in the case of an entity which has submitted an application to the Secretary for determination that it is a health maintenance organization within the meaning of paragraph (1) and for which no such determination has been made within 90 days of the submission of the application, make a provisional determination for the purposes of this title that such entity is such a health maintenance organization. Such provisional determination shall remain in force until such time as the Secretary makes a determination regarding the entity's qualification under paragraph (1).”

(b) The amendment made by subsection (a) shall apply with respect to payments under title XIX of the Social Security Act to States for services provided—

42 USC 1396b
note.

42 USC 1396.

(1) after the date of enactment of subsection (a) under contracts under such title entered into or renegotiated after such date, or

(2) after the expiration of the 1-year period beginning on such date of enactment, whichever occurs first.

TITLE III—MISCELLANEOUS AMENDMENTS

CENTER FOR HEALTH SERVICES POLICY ANALYSIS

42 USC 247c.

SEC. 301. Section 305(d) (1) of the Public Health Service Act is amended (1) by striking out "two national special emphasis centers" and substituting "three national special emphasis centers", (2) by striking out "and one" and substituting "one", and (3) by inserting before the last close parenthesis a semicolon and the following: "and one of which (to be designated as the Health Services Policy Analysis Center) shall focus on the development and evaluation of national policies with respect to health services, including the development of health maintenance organizations and other forms of group practice, with a view toward improving the efficiencies of the health services delivery system".

HOME HEALTH EXTENSION

42 USC 1395x
note.

SEC. 302. (a) Section 602(a) (5) of Public Law 94-63 is amended by inserting "\$2,000,000 for the period July 1, 1976, through September 30, 1976, \$8,000,000 for the fiscal year ending September 30, 1977" after "1976".

(b) Section 602(b) (4) of Public Law 94-63 is amended by inserting "\$1,000,000 for the period July 1, 1976, through September 30, 1976, and \$4,000,000 for the fiscal year ending September 30, 1977" after "1976".

EXTENSION OF REPORTING DATE

42 USC 289k-2.

SEC. 303. Section 603(b) of Public Law 94-63 is amended by striking "Within one year" and substituting "Not later than 2 years".

TECHNICAL

21 USC 360d.

SEC. 304. Section 514(a) of the Federal Food, Drug, and Cosmetic Act is amended by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

Approved October 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-518 (Comm. on Interstate and Foreign Commerce) and No. 94-1513 (Comm. of Conference).

SENATE REPORT: No. 94-844 accompanying S. 1926 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 7, considered and passed House.

Vol. 122 (1976): June 14, considered and passed Senate, amended, in lieu of S. 1926.

Sept. 16, Senate agreed to conference report.

Sept. 23, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 42 (1976): Oct. 9, Presidential statement.

Note.—A change has been made in the slip law format to provide for one-time preparation of copy to be used for publication of both slip laws and the United States Statutes at Large volumes. Comments from users are invited by the Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

Conference Report, to accompany
H.R. 9019, House of
Representatives Report No.
94-1513, Excerpts from.



TITLE II—AMENDMENTS TO SOCIAL SECURITY ACT

MEDICARE AMENDMENTS

Sec. 201. (a) Section 1876(b) of the Social Security Act is amended to read as follows:

“(b) (1) The term ‘health maintenance organization’ means a legal entity which provides health services on a prepayment basis to individuals enrolled with such organizations and which—

“(A) provides to its enrollees who are insured for benefits under parts A and B of this title or for benefits under part B alone, through institutions, entities, and persons meeting the applicable requirements of section 1861, all of the services and benefits covered under such parts (to the extent applicable under subparagraph (A) or (B) of subsection (a) (1)) which are available to individuals residing in the geographic area served by the organization;

“(B) provides such services in the manner prescribed by section 1301(b) of the Public Health Service Act, except that solely for the purposes of this section—

“(i) the term ‘basic health services’ and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this title;

“(ii) the organization shall not be required to fix the basic health services payment under a community rating system;

“(iii) the additional nominal payments authorized by section 1301(b) (1) (D) of such Act shall not exceed the limits applicable under subsection (g) of this section; and

“(iv) payment for basic health services provided by the organization to its enrollees under this section or for services such enrollees receive other than through the organization shall be made as provided for by this title;

“(C) is organized and operated in the manner prescribed by section 1301(c) of the Public Health Service Act, except that solely for the purposes of this section—

“(i) the term ‘basic health services’ and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this title;

“(ii) the organization shall not be reimbursed for the cost of reinsurance except as permitted by subsection (i) of this section; and

“(iii) the organization shall have an open enrollment period as provided for in subsection (k) of this section.

“(2) (A) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a

'health maintenance organization' within the meaning of paragraph (1), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.

"(B) Except as provided in subparagraph (A), the Secretary shall administer the provisions of this section through the Commissioner of Social Security."

(b) Section 1876(h) of such Act is amended to read as follows:

"(h) (1) Except as provided in paragraph (2), each health maintenance organization with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who have not attained age 65.

"(2) The Secretary may waive the requirement imposed in paragraph (1) for a period of not more than three years from the date a health maintenance organization first enters into an agreement with the Secretary pursuant to subsection (i), but only for so long as such organization demonstrates to the satisfaction of the Secretary by the submission of its plan for each year that it is making continuous efforts and progress toward compliance with the provisions of paragraph (1) within such three-year period."

(c) Section 1876(i) (6) (B) of such Act is amended by striking out "(other than those with respect to out-of-area services)" and inserting in lieu thereof "(other than costs with respect to out-of-area services and, in the case of an organization which has entered into a risk-sharing contract with the Secretary pursuant to paragraph (2) (A), the cost of providing any member with basic health services the aggregate value of which exceeds \$5,000 in any year)".

(d) Section 1876 is amended by adding at the end thereof the following—

"(k) Each health maintenance organization with which the Secretary enters into a contract under this section shall have an open enrollment period at least every year under which it accepts up to the limits of its capacity and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment (unless to do so would result in failure to meet the requirements of subsection (h)) or would result in enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by such health maintenance organization."

(e) The amendments made by this section shall be effective with respect to contracts entered into between the Secretary and health maintenance organizations under section 1876 of the Social Security Act on and after the first day of the first calendar month which begins more than 30 days after the date of enactment of this Act.

TREATMENT OF HMO'S UNDER MEDICARE

Definition and Requirements of an HMO

Existing Law: Title XVIII of the Social Security Act defines and sets forth requirements for HMOs for the purposes of title XVIII without reference to the definition of an HMO found in title XIII of the PHS Act. The definition and requirements in title XVIII are, however, generally comparable to those in title XIII except that:

(1) The services required are those covered under Parts A and B of title XVIII rather than the basic health services.

(2) Physicians' services are to be provided primarily either directly through physicians who are employees or partners of the HMO or under arrangements with groups of physicians (whether organized on a group practice or individual practice basis) who are prepaid by the HMO, rather than by physicians who are either on the staff of the HMO, in a medical group or in an individual practice association.

(3) The definition specifically requires the HMO to provide both primary care and specialty care physicians for its members and defines a "specialty care physician".

(4) At least half of the members of the HMO are to be under age 65 (with a three year waiver provided for making the transition to meet this requirement).

(5) The institutions, entities, or persons who provide the covered service to Medicare beneficiaries, either directly or under arrangements, must meet Medicare definitions and requirements.

(6) Provision is made for enrollment of not only beneficiaries eligible for benefits under both Part A and Part B of Medicare, but for those eligible only for Part B benefits.

(7) The HMO premium rate or other charge to Medicare enrollees is based on the actuarial value of the Medicare deductible plus any coinsurance (rather than community-rated as under title XIII).

(8) HMOs participating in Medicare are not required to assume full financial risk; rather, payment to the HMOs is made either on a reasonable cost basis or under a special risk formula.

(9) Payments for out-of-area services are made directly to the institution, entity, or person who furnished the service (rather than through the beneficiary as under title XIII).

(10) There is no provision for waiver of the open enrollment requirement.

Section 1876(b) of title XVIII of the Social Security Act.

House Bill: No change.

Senate Amendment: Amends the definition and requirements of an HMO in section 1876(b) to rely upon, by cross reference, the definition and requirements of an HMO in title XIII of the PHS Act, except to specify that the services which the HMO must provide are those covered in Parts A and B of title XVIII rather than the basic health services defined in title XIII. The requirements of existing law (subparagraphs (4)-(10) above) which are additional to those in title XIII are preserved. The requirements for physicians' services are eliminated in deference to those in title XIII and the requirement for provision of primary and specialty care physicians is eliminated outright. Section 14 of S. 1926.

Conference Substitute: Conforms to the Senate amendment. The issues were discussed with both the House Committee on Ways and Means and Senate Committee on Finance. The Senate amendment was acceptable to all concerned; because it creates desirable uniformity in HMO policy and administration.

Administration

Existing Law: Makes no specific provision for the administration of the HMO provisions in title XVIII of the Social Security Act.

House Bill: No change.

Senate Amendment: Requires the Secretary to administer determinations of whether an organization is an HMO within the meaning of the amended definition in section 1876 through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and to administer the making of such determinations in an integrated fashion with the administration of section 1312 (a) and (b) of the PHS Act (concerning continued regulation of HMOs). Further specifies that the administration of the remainder of section 1876 shall be done through the Commissioner of Social Security. Section 14(a) of S. 1926.

Conference Substitute: Conforms to the Senate amendment.

Requirements Respecting Reinsurance Costs

Existing Law: Requires that each contract with an HMO under section 1876 provide that no reinsurance costs (other than those with respect to out-of-area services) including any underwriting of risk relating to costs in excess of adjusted average per capita cost, as defined in clause III of section 1876(a) (3) (A), shall be allowed for purposes of determining payment, authorized under section 1876. Section 1876 (i) (6) (B) of the Social Security Act.

House Bill: No change.

Senate Amendment: Strikes the requirement. Section 14(c) of S. 1926.

Conference Substitute: Contains a compromise which in general conforms to existing law, but is made consistent with the policy of reinsurance in existing title XIII of the PHS Act, by allowing HMOs at risk under title XVIII to reinsure for out-of-area and catastrophic costs.

Public Law 94-563 (H.R. 15571),
October 19, 1976, An Act to
amend the IRC of 1954 and
title II of the Social Security
Act to provide that payment of
social security taxes by a
nonprofit organization for its
employees shall constitute a
constructive filing for social
security coverage.



Public Law 94-563
94th Congress

An Act

Oct. 19, 1976

[H.R. 15571]

To amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate.

Social security
taxes.

42 USC 410.

26 USC 3121.

26 USC 501.

26 USC 3101,
3111.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 210 (a) (8) (B) of the Social Security Act is amended—

(1) by inserting after “filed pursuant to section 3121(k) of the Internal Revenue Code of 1954” in the matter preceding clause (i) the following: “(or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k))”;

(2) by inserting after “filed” in clauses (i), (ii), and (iii) the following: “(or deemed to have been filed)”;

(3) by striking out “is in effect” in the matter following clause (iii) and inserting in lieu thereof “is (or is deemed to be) in effect”.

(b) Section 3121(b)(8) of the Internal Revenue Code of 1954 (relating to exclusion of certain services from definition of employment) is amended—

(1) by inserting after “filed pursuant to subsection (k) (or the corresponding subsection of prior law)” in the matter preceding clause (i) the following: “(or deemed to have been so filed under paragraph (4) or (5) of such subsection”;

(2) by inserting after “filed” in clauses (i), (ii), and (iii) the following: “(or deemed to have been filed)”;

(3) by striking out “is in effect” in the matter following clause (iii) and inserting in lieu thereof “is (or is deemed to be) in effect”.

(c) Section 3121(k) of such Code (relating to exemption of religious, charitable, and certain other organizations) is amended by adding at the end thereof the following new paragraphs:

“(4) CONSTRUCTIVE FILING OF CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN MADE.—

“(A) In any case where—

“(i) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) has not filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) as of the date of the enactment of this paragraph or any subsequent date, but

“(ii) the taxes imposed by sections 3101 and 3111 have been paid with respect to the remuneration paid by such organization to its employees, as though such a certificate had been filed, during any period (subject to subparagraph (B)(i)) of not less than three consecutive calendar quarters,

42 USC 410.

such organization shall be deemed (except as provided in subparagraph (B) of this paragraph) for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) on the first day of the period described in clause (ii) of this subparagraph effective on the first day of the calendar quarter in which such period began, and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes described in such subparagraph were paid (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate).

“(B) Subparagraph (A) shall not apply with respect to any organization if—

42 USC 405.

“(i) the period referred to in clause (ii) of such subparagraph (in the case of that organization) terminated before the end of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph, or

“(ii) a refund or credit of any part of the taxes which were paid as described in clause (ii) of such subparagraph with respect to remuneration for services performed on or after the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of enactment of this paragraph (other than a refund or credit which would have been allowed if a valid waiver certificate filed under paragraph (1) had been in effect) has been obtained by the organization or its employees prior to September 9, 1976.

“(5) CONSTRUCTIVE FILING OF CERTIFICATE WHERE REFUND OR CREDIT HAS BEEN MADE AND NEW CERTIFICATE IS NOT FILED.—In any case where—

26 USC 501.

“(A) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) would be deemed under paragraph (4) of this subsection to have filed a valid waiver certificate under paragraph (1) if it were not excluded from such paragraph (4) (pursuant to subparagraph (B)(ii) thereof) because a refund or credit of all or a part of the taxes described in paragraph (4)(A)(ii) was obtained prior to September 9, 1976; and

“(B) such organization has not, prior to the expiration of 180 days after the date of the enactment of this paragraph, filed a valid waiver certificate under paragraph (1) which is effective for a period beginning on or before the first day of the first calendar quarter with respect to which such refund or credit was made (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under paragraph (1)(B)(iii)) and which is accompanied by the list described in paragraph (1)(A),

such organization shall be deemed, for purposes of subsection (b) (8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection on the 181st day after the date of the enactment of this paragraph, effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (A) of this paragraph was made (or, if later, with the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph), and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee described in subparagraph (A) of paragraph (4) including any employee with respect to whom taxes were refunded or credited as described in subparagraph (A) of this paragraph (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate). A certificate which is deemed to have been filed by an organization on such 181st day shall supersede any certificate which may have been actually filed by such organization prior to that day except to the extent prescribed by the Secretary or his delegate.

42 USC 410.

42 USC 405.

“(6) APPLICATION OF CERTAIN PROVISIONS TO CASES OF CONSTRUCTIVE FILING.—All of the provisions of this subsection (other than subparagraphs (B), (F), and (H) of paragraph (1)), including the provisions requiring payment of taxes under sections 3101 and 3111 with respect to the services involved, shall apply with respect to any certificate which is deemed to have been filed by an organization on any day under paragraph (4) or (5), in the same way they would apply if the certificate had been actually filed on that day under paragraph (1); except that—

26 USC 3101.

26 USC 3111.

“(A) the provisions relating to the filing of supplemental lists of concurring employees in the third sentence of paragraph (1)(A), and in paragraph (1)(C), shall apply to the extent prescribed by the Secretary or his delegate;

“(B) the provisions of paragraph (1)(E) shall not apply unless the taxes described in paragraph (4)(A)(ii) were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate; and

“(C) the action of the organization in obtaining the refund or credit described in paragraph (5)(A) shall not be considered a termination of such organization's coverage period for purposes of paragraph (3). Any organization which is deemed to have filed a waiver certificate under paragraph (4) or (5) shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

26 USC 3102.

“(7) BOTH EMPLOYEE AND EMPLOYER TAXES PAYABLE BY ORGANIZATION FOR RETROACTIVE PERIOD IN CASES OF CONSTRUCTIVE FILING.—Notwithstanding any other provision of this chapter, in any case where an organization described in paragraph (5)(A) has not filed a valid waiver certificate under paragraph (1) prior to the expiration of 180 days after the date of the enactment of this paragraph and is accordingly deemed under paragraph (5) to have filed such a certificate on the 181st day after such date, the taxes due under section 3101, with respect to services constituting

26 USC 3111.

employment by reason of such certificate for any period prior to the first day of the calendar quarter in which such 181st day occurs (along with the taxes due under section 3111 with respect to such services and the amount of any interest paid in connection with the refund or credit described in paragraph (5)(A)) shall be paid by such organization from its own funds and without any deduction from the wages of the individuals who performed such services; and those individuals shall have no liability for the payment of such taxes.

26 USC 3101.

“(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where an organization described in paragraph (5)(A) files a valid waiver certificate under paragraph (1) by the end of the 180-day period following the date of the enactment of this paragraph as described in paragraph (5)(B), or (not having filed such a certificate within that period) is deemed under paragraph (5) to have filed such a certificate on the 181st day following that date, the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary or his delegate, rather than in a lump sum.”

26 USC 3121
note.*Ante*, p. 2655.

(d) The amendments made by this section shall apply with respect to services performed after 1950, to the extent covered by waiver certificates filed or deemed to have been filed under section 3121(k) (4) or (5) of the Internal Revenue Code of 1954 (as added by such amendments).

26 USC 3121
note.

SEC. 2. Notwithstanding any other provision of law, no refund or credit of any tax paid under section 3101 or 3111 of the Internal Revenue Code of 1954 by an organization described in section 501(c) (3) of such Code which is exempt from income tax under section 501(a) of such Code shall be made on or after September 9, 1976, by reason of such organization's failure to file a waiver certificate under section 3121(k)(1) of such Code (or the corresponding provision of prior law), if such organization is deemed to have filed such a certificate under section 3121(k)(4) of such Code (as added by the first section of this Act).

Remuneration.
26 USC 3121
note.

SEC. 3. In any case where—

(1) an individual performed service, as an employee of an organization which is deemed under section 3121(k)(5) of the Internal Revenue Code of 1954 to have filed a waiver certificate under section 3121(k)(1) of such Code, at any time prior to the period for which such certificate is effective;

(2) the taxes imposed by sections 3101 and 3111 of such Code were paid with respect to remuneration paid for such service, but such service (or any part thereof) does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b) of such Code) because the applicable taxes so paid were refunded or credited (otherwise than through a refund or credit which would have been allowed if a valid waiver certificate filed under section 3121(k)(1) of such Code had been in effect) prior to September 9, 1976; and

(3) any portion of such service (with respect to which taxes were paid and refunded or credited as described in paragraph (2)) would constitute employment (as so defined) if the organization had actually filed under section 3121(k)(1) of such Code a valid waiver certificate effective as provided in section 3121(k)(5)(B) thereof (with such individual's signature appearing on the accompanying list), 26 USC 3121.

the remuneration paid for the portion of such service described in paragraph (3) shall, upon the request of such individual (filed in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act) accompanied by full repayment of the taxes which were paid under section 3101 of such Code with respect to such remuneration and so refunded or credited, be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for repayment of any taxes which it paid under section 3111 of such Code with respect to such remuneration and which were refunded or credited to it. 26 USC 3101. 26 USC 3111.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1711 (Comm. on Ways and Means).
 CONGRESSIONAL RECORD, Vol. 122 (1976):
 Sept. 30, considered and passed House.
 Oct. 1, considered and passed Senate.

Note.—A change has been made in the slip law format to provide for one-time preparation of copy to be used for publication of both slip laws and the United States Statutes at Large volumes. Comments from users are invited by the Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.



Report of the Committee on
Ways and Means, to accompany
H.R. 15571, House of
Representatives Report No.
94-1711.



SOCIAL SECURITY COVERAGE THROUGH CONSTRUCTIVE FILING OF WAIVER CERTIFICATES BY CERTAIN NONPROFIT ORGANIZATIONS

SEPTEMBER 28, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 15571]

The Committee on Ways and Means, to whom was referred the bill (H.R. 15571) to amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to validate the social security credits of employees of nonprofit organizations in instances in which a nonprofit organization and its employees had been paying social security taxes without having filed a valid waiver certificate to cover such employees under the social security program. The bill would provide that such a certificate would be deemed to have been filed by such an organization in those instances in which the organization did not apply for a refund of erroneously paid taxes before September 9, 1976, and those instances in which the organization does not file a waiver certificate within 180 days after enactment of the bill.

GENERAL DISCUSSION

NEED FOR LEGISLATION

Under present law, employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service a certificate waiving its exemption from taxation. Coverage may be provided retroactively for up to five years before the calendar quarter in which the waiver is filed. Employees of the organization at the time the waiver certificate is filed are given the option to participate in the program and, if they decide to do so, must sign a form accompanying the certificate waiving their right of exemption. All employees subsequently hired by the organization are automatically covered under the program. After a waiver certificate has been in effect for eight years, an organization may terminate it after giving two years advance notice.

There is substantial evidence that a large number of nonprofit organizations and their employees have been paying social security taxes even though the organizations have not filed a valid waiver certificate necessary to waive such organizations' exemption from social security tax liability and extend coverage under the program to their employees. The Internal Revenue Service has determined that such nonprofit organizations and their employees are entitled to a refund of social security taxes paid during the statute of limitations period (approximately three years) and when a refund is made the social security credits earned by an organization's employees during the statute of limitations period are cancelled.

The General Accounting Office has conducted a study of this situation and estimates that in 1975 around 13,000 to 20,000 nonprofit organizations that had not filed a waiver certificate were paying social security taxes ranging from around \$118 million to \$369 million. Based on the higher of the GAO estimates, the potential drain on the social security trust funds for the three year statute of limitations period, if all the organizations and their employees chose to accept refunds, would be around \$1 billion. The GAO also concluded on the basis of its survey that approximately 60-65 per cent of the employees of nonprofit organizations withdrew from the social security program when given the opportunity. Thus, even if all the employing organizations chose to file waiver certificates covering the retroactive period, refunds for employees who choose not to retain their coverage could still total around \$600 million.

PROVISIONS OF THE BILL

The bill would provide that in cases in which a nonprofit organization and its employees have paid social security taxes for at least three consecutive calendar quarters and continuing to within the statute of limitations period, without having filed a valid waiver certificate, but no refund or credit of such taxes has been made prior to September 9, 1976, the organization would be deemed to have filed a valid waiver certificate and a list of concurring employees representing those employees for whom social security taxes were paid. This would validate the social security coverage of employees of nonprofit organizations that have been erroneously paying social security taxes without filing proper waiver certificates, both before and after enactment, with

respect to those organizations that have not received a refund credit of such taxes.

Those organizations which have received a refund or credit of taxes would have 180 days after enactment of the bill to voluntarily file a waiver certificate and a list of concurring employees. A certificate which is filed voluntarily would be effective for the first day of the period for which taxes were refunded or credited or five years before the date the certificate is filed, whichever is later.

A nonprofit organization that does not file a waiver certificate within 180 days after enactment of the bill would be deemed to have filed on the 181st day after enactment a waiver certificate for all employees for whom social security taxes were paid. A certificate which is deemed to have been filed by such an organization would be effective for the first day of the period for which a refund or credit of erroneously paid taxes was made or the first calendar quarter within the statute of limitations period, whichever is later. An organization that does not file a waiver certificate within 180 days after enactment of the bill would be solely liable for both employer and employee taxes for the retroactive period. The payment of retroactive taxes would be permitted to be made in installments and the Internal Revenue Service would have discretion to establish any reasonable period for the payment of such taxes.

It is the Committee's intent that the bill would apply to instances in which a nonprofit organization has filed a waiver certificate and subsequently submitted social security taxes for itself and its employees, but following advice received from the Internal Revenue Service, failed to file a list of concurring employees at the time it filed a waiver certificate.

OTHER MATTERS TO BE DISCUSSED UNDER RULES

In compliance with clause 2(1)(2)(B) of rule XI of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill. The bill was ordered reported by voice vote.

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As a result of an investigation conducted by the Subcommittee on Social Security, your committee concluded that it would be desirable to enact legislation to validate the social security credits of employees of nonprofit organizations that have been erroneously paying such taxes as is provided in H.R. 15571.

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, your committee was advised by the Director of the Congressional Budget Office that because of the lack of relevant data, that office was unable to make a proper estimate of the potential savings arising from the enactment of H.R. 15571.

In compliance with clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made. Enactment of H.R. 15571 would not result in any new budget authority or increased tax expenditures.

In compliance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, your committee states that no oversight findings or recommendations have been submitted to your committee

by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(1) (4) of rule XI of the Rules of the House of Representatives, your committee states that this bill would not have any inflationary impact on prices and costs in the operation of the national economy.

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the cost of the bill: The enactment of H.R. 15571 would not add to the cost of the social security program. The bill should result in a significant saving to the program in the form of the elimination of refunds that would otherwise be made to non-profit organization that have paid social security taxes erroneously. Neither the Office of the Actuary, Social Security Administration nor the Congressional Budget Office was able to furnish the Committee with a reliable estimate of the amount of such savings.

SECTION BY-SECTION ANALYSIS OF H.R. 15571

Sections 1(a) (1), (2), and (3) of the bill amend section 210(a) (8) (B) of the Social Security Act to include in the definition of employment service performed in the employ of a religious, charitable, educational, or other organization described in section 501(c) (3) of the Internal Revenue Code of 1954 which is exempt from income tax under section 501(a) of the Code during a period for which a certificate deemed to have been filed pursuant to paragraph (4) or (5) of section 3121(k) of the Code (as added by the bill) is in effect.

Sections 1(b) (1), (2), and (3) of the bill make conforming changes in section 3121(b) (8) (B) of the Code for purposes of the Federal Insurance Contributions Act.

Section 1(c) of the bill amends section 3121(k) of the Code by adding new paragraphs (4), (5), (6), (7), and (8).

The new section 3121(k) (4), entitled "Constructive filing of certificate where no refund or credit of taxes has been made," validates the social security coverage of employees of section 501(c) (3) non-profit organizations which had been erroneously paying the taxes under sections 3101 and 3111 of the Code for their employees without filing a certificate under section 3121(k) (1) of the Code, provided no refund or credit of the erroneously paid taxes had been obtained before September 9, 1976, and the organization has paid the social security taxes during any period of not less than 3 calendar quarters after 1950 extending until at least the end of the first quarter falling wholly or partly within the time limitation defined in section 205(c) of the Act (3 years, 3 months, and 15 days) before enactment of the bill. Such nonprofit organization will be deemed to have filed a certificate accompanied by a list containing the signature, address, and social security number, if any, of each employee for whom the taxes were paid. Each such employee will be deemed to have concurred in the filing of the certificate. The paragraph will apply to taxes erroneously paid both before and after enactment.

The new section 3121(k) (5), entitled "Constructive filing of certificate where refund or credit has been made and new certificate is not filed," provides that a nonprofit organization which has received a refund or credit of erroneously paid taxes under sections 3101 and

3111 of the Code prior to September 9, 1976, will be deemed to have filed a certificate for all its employees for whom taxes under sections 3101 and 3111 of the Code were paid including those for whom the taxes were refunded, unless the organization voluntarily files a certificate within 180 days after enactment of the bill. A certificate voluntarily filed under this paragraph must be effective for the first day of the period for which the taxes were refunded or credited or 5 years before the date the certificate is filed, whichever is later, and can apply to any employee of the organization who wished to be covered under social security. A certificate deemed to have been filed under this paragraph will be effective for the first day of the period for which the taxes were refunded or credited or 3 years, 3 month, and 15 days before enactment of the bill, whichever is later, and will apply to all the employees for whom the taxes were erroneously paid. A certificate deemed to have been filed under this paragraph supersedes any certificate actually filed by an organization prior to the deemed filing except to the extent prescribed by the regulations of the Secretary of the Treasury.

The new section 3121(k) (6), entitled "Application of certain provisions to cases of constructive filing," provides that the provisions of section 3121(k) of the Code, except subparagraphs (B), (F), and (H) of paragraph (1), including the provisions requiring payment of taxes under sections 3101 and 3111 of the Code, shall apply with respect to any certificate deemed to have been filed under section 3121(k) (4) or (5) of the Code, in the same way they would apply to a certificate actually filed under section 3121(k) (1) of the Code. However, the application of certain of the provisions is qualified so that:

(1) the filing of a supplemental list under the third sentence of paragraph (1)(A) or paragraph (1)(C) of section 3121(k) by an organization which has been deemed to have filed a certificate under section 3121(k) (4) or (5) of the Code applies only to the extent prescribed by the Secretary of the Treasury,

(2) if part of the employees of an organization are covered by a State or local staff-retirement system, the organization cannot divide its employees into two groups (those who are covered by the staff-retirement system and those who are not) under section 3121(k) (1)(E) of the Code when a certificate is deemed to have been filed under section 3121(k) (4) or (5) of the Code unless the taxes were paid under sections 3101 and 3111 of the Code by the organization as though a separate certificate had been filed for each group of employees,

(3) the request for refund of taxes paid under sections 3101 and 3111 of the Code by a nonprofit organization will not be considered to have been a termination of a period of coverage under section 3121(k) (3) of the Code, and

(4) any organization which is deemed to have filed a waiver certificate under section 3121(k) (4) or (5) of the Code shall be considered for purposes of section 3102(b) of the Code to have been required to deduct the taxes imposed by section 3101 of the Code with respect to the services involved.

The new section 3121(k) (7), entitled "Both employee and employer taxes payable by organization for retroactive period in cases of constructive filing," provides that in cases where a nonprofit organization

obtained a refund or credit of taxes and a certificate was not filed under section 3121(k)(1) of the Code in the 180-day period after enactment of the bill, the organization will be solely liable for the taxes due under sections 3101 and 3111 of the Code for the period prior to the calendar quarter in which the certificate is deemed to have been filed under section 3121(k)(5) of the Code, and the employees will have no liability for the payment of such taxes.

The new section 3121(k)(8), entitled "Extended period for payment of taxes for retroactive coverage," provides that if an organization files a certificate under section 3121(k)(1) of the Code within the prescribed 180-day period or is deemed to have filed a certificate under section 3121(k)(5) of the Code, the taxes due under sections 3101 and 3111 of the Code for periods prior to the first day of the calendar quarter in which the certificate is actually or deemed filed may be paid in installments over an extended period of time in accordance with regulations prescribed by the Secretary.

Section 1(d) of the bill provides that the amendments made by sections 1(a), (b), and (c) shall apply to services performed after 1950 for which certificates were filed or were deemed to have been filed under section 3121(k)(4) or (5) of the Code as added by these amendments.

Section 2 of the bill provides that after September 9, 1976, no refund or credit of taxes paid under section 3101 or 3111 of the Code shall be made to a nonprofit organization which paid such taxes without filing a certificate under section 3121(k)(1) of the Code if the organization is deemed to have filed a certificate under section 3121(k)(4) of the Code as added by the bill.

Section 3 of the bill provides that if an individual performed services for an organization which is deemed to have filed a certificate under section 3121(k)(5) of the Code as added by the bill, and if such services were performed prior to the period for which the deemed certificate is effective (but during the period for which a certificate actually filed under section 3121(k)(5)(B) would have been effective) and taxes under sections 3101 and 3111 of the Code were paid with respect to remuneration paid for such service but were refunded or credited prior to September 9, 1976, the remuneration for such services shall be deemed to constitute employment as defined in section 210(a) of the Act and section 3121(b) of the Code provided that: (1) the services would have constituted employment as so defined if the organization had filed a certificate under 3121(k)(1) of the Code with the individual's signature on the accompanying list and (2) the individual files a request, in a manner and form to be prescribed by regulations under chapter 21 of the Code, together with full repayment of the taxes paid under section 3101 of the Code with respect to such remuneration. In a case where such remuneration is deemed to constitute employment the organization shall be liable for repayment of any taxes it paid under section 3111 of the Code with respect to such remuneration and which were refunded or credited to it.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as

reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman) :

SECTION 210 OF THE SOCIAL SECURITY ACT

DEFINITION OF EMPLOYMENT

SEC. 210. For the purposes of this title—

Employment

(a) The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this title under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e)), or (ii) of a foreign subsidiary (as defined in section 3121(l) of the Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of the Internal Revenue Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121(l) of the Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include—

(1) * * *

(8) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

(B) Service performed in the employ of a religious, charitable educational, or other organization described in section 501(c) (3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501(a) of such Code, but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to section 3121(k) of the Internal Revenue Code of 1954 (*or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k)*), is in effect if such service is performed by an employee—

(i) whose signature appears on the list filed (*deemed to have been filed*) by such organization under such section 3121(k),

(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed (*or deemed to have been filed*), or

(iii) who, after the calendar quarter in which the certificate was filed (*or deemed to have been filed*) with respect to a group described in paragraph (1)(E) of such section 3121(k), became a member of such group, except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in such paragraph (1)(E) with respect to which no certificate is (*or is deemed to be*) in effect;

* * * * *

INTERNAL REVENUE CODE OF 1954

* * * * *

Subtitle C—Employment Taxes

* * * * *

CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

* * * * *

Subchapter C—General Provisions

* * * * *

SEC. 3121. DEFINITIONS.

(a) **WAGES.**—* * *

(b) **EMPLOYMENT.**—For purposes of this chapter, the term “employment” means any service performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as de-

defined in subsection (h)) : except that, in the case of service performed after 1954, such term shall not include—

(1) * * *

(8) (A) service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under subsection (r) is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

(B) service performed in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) which is exempt from income tax under section 501(a), but this subparagraph shall not apply to services performed during the period for which a certificate, filed pursuant to subsection (k) (or the corresponding subsection of prior law) *or deemed to have been so filed under paragraph (4) or (5) of such subsection*, is in effect if such service is performed by an employee—

(i) whose signature appears on the list filed (*or deemed to have been filed*) by such organization under subsection (k) (or the corresponding subsection of prior law),

(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed (*or deemed to have been filed*), or

(iii) who, after the calendar quarter in which the certificate was filed (*or deemed to have been filed*) with respect to a group described in section 3121(k)(1)(E), became a member of such group,

except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in section 3121(k)(1)(E) with respect to which no certificate is (*or is deemed to be*) in effect;

(k) EXEMPTIONS OF RELIGIOUS, CHARITABLE, AND CERTAIN OTHER ORGANIZATIONS.—

(1) WAIVER OF EXEMPTION BY ORGANIZATION.— * * *

(3) NO RENEWAL OF WAIVER.—In the event the period covered by a certificate filed pursuant to this subsection or the corresponding subsection of prior law is terminated by the organization, no certificate may again be filed by such organization pursuant to this subsection.

(4) CONSTRUCTIVE FILING OF CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN MADE.—

(A) In any case where—

(i) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a)

has not filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) as of the date of the enactment of this paragraph or any subsequent date, but

(ii) the taxes imposed by sections 3101 and 3111 have been paid with respect to the remuneration paid by such organization to its employees, as though such a certificate had been filed, during any period (subject to subparagraph (B)(i)) of not less than three consecutive calendar quarters.

such organization shall be deemed (except as provided in subparagraph (B) of this paragraph) for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) on the first day of the period described in clause (ii) of this subparagraph effective on the first day of the calendar quarter in which such period began, and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes described in such subparagraph were paid (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate).

(B) Subparagraph (A) shall not apply with respect to any organization if—

(i) the period referred to in clause (ii) of such subparagraph (in the case of that organization) terminated before the end of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph, or

(ii) a refund or credit of any part of the taxes which were paid as described in clause (ii) of such subparagraph with respect to remuneration for services performed on or after the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of enactment of this paragraph (other than a refund or credit which would have been allowed if a valid waiver certificate filed under paragraph (1) had been in effect) has been obtained by the organization or its employees prior to September 9, 1976.

(5) CONSTRUCTIVE FILING OF CERTIFICATE WHERE REFUND OR CREDIT HAS BEEN MADE AND NEW CERTIFICATE IS NOT FILED.—In any case where—

(A) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) would be deemed under paragraph (4) of this subsection to have filed a valid waiver certificate under paragraph (1) if it were not excluded from such paragraph (4) (pursuant to subparagraph

(B) (ii) thereof) because a refund or credit of all or a part of the taxes described in paragraph (4) (A) (ii) was obtained prior to September 9, 1976; and

(B) such organization has not, prior to the expiration of 180 days after the date of the enactment of this paragraph, filed a valid waiver certificate under paragraph (1) which is effective for a period beginning on or before the first day of the first calendar quarter with respect to which such refund or credit was made (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under paragraph (1) (B) (iii)) and which is accompanied by the list described in paragraph (1) (A), such organization shall be deemed, for purposes of subsection (b) (8) (B) and section 210(a) (8) (B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection on the 181st day after the date of the enactment of this paragraph, effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (A) of this paragraph was made (or, if later, with the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c) (1) (B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph), and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee described in subparagraph (A) of paragraph (4) including any employee with respect to whom taxes were refunded or credited as described in subparagraph (A) of this paragraph (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate). A certificate which is deemed to have been filed by an organization on such 181st day shall supersede any certificate which may have been actually filed by such organization prior to that day except to the extent prescribed by the Secretary or his delegate.

(6) APPLICATION OF CERTAIN PROVISIONS TO CASES OF CONSTRUCTIVE FILING.—All of the provisions of this subsection (other than subparagraphs (B), (F), and (H) of paragraph (1)), including the provisions requiring payment of taxes under sections 3101 and 3111 with respect to the services involved, shall apply with respect to any certificate which is deemed to have been filed by an organization on any day under paragraph (4) or (5), in the same way they would apply if the certificate had been actually filed on that day under paragraph (1); except that—

(A) the provisions relating to the filing of supplemental lists of concurring employees in the third sentence of paragraph (1) (A), and in paragraph (1) (C), shall apply to the extent prescribed by the Secretary or his delegate;

(B) the provisions of paragraph (1) (E) shall not apply unless the taxes described in paragraph (4) (A) (ii) were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate; and

(C) the action of the organization in obtaining the refund or credit described in paragraph (5) (A) shall not be considered a termination of such organization's coverage period for purposes of paragraph (3).

Any organization which is deemed to have filed a waiver certificate under paragraph (4) or (5) shall be considered for purposes of section 3102 (b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

(7) **BOTH EMPLOYEE AND EMPLOYER TAXES PAYABLE BY ORGANIZATION FOR RETROACTIVE PERIOD IN CASES OF CONSTRUCTIVE FILING.**—Notwithstanding any other provision of this chapter, in any case where an organization described in paragraph (5) (A) has not filed a valid waiver certificate under paragraph (1) prior to the expiration of 180 days after the date of the enactment of this paragraph and is accordingly deemed under paragraph (5) to have filed such a certificate on the 181st day after such date, the taxes due under section 3101, with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which such 181st day occurs (along with the taxes due under section 3111 with respect to such services and the amount of any interest paid in connection with the refund or credit described in paragraph (5) (a)) shall be paid by such organization from its own funds and without any deduction from the wages of the individuals who performed such services; and those individuals shall have no liability for the payment of such taxes.

(8) **EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.**—Notwithstanding any other provision of this title, in any case where an organization described in paragraph (5) (A) files a valid waiver certificate under paragraph (1) by the end of the 180-day period following the date of the enactment of this paragraph as described in paragraph (5) (B), or (not having filed such a certificate within that period) is deemed under paragraph (5) to have filed such a certificate on the 181st day following that date, the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period to the first day of the calendar quarter in which the date of such filing or constructive filing occurs may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary or his delegate, rather than in a lump sum.

* * * * *

Public Law 94-566 (H.R. 10210),
October 20, 1976, An Act to
require States to extend
unemployment compensation
coverage to certain previously
uncovered workers; to increase
the amount of the wages subject
to the Federal unemployment tax;
to increase the rate of such tax.

Public Law 94-566
94th Congress

An Act

To require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Unemployment Compensation Amendments of 1976".

Oct. 20, 1976
[H.R. 10210]

Unemployment
Compensation
Amendments of
1976.
26 USC 3304
note.

TITLE I—EXTENSION OF COVERAGE PROVISIONS

PART I—GENERAL PROVISIONS

SEC. 111. COVERAGE OF CERTAIN AGRICULTURAL EMPLOYMENT

(a) NONCASH REMUNERATION.—Section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "or" at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

26 USC 3306.

"(11) remuneration for agricultural labor paid in any medium other than cash."

(b) COVERAGE OF AGRICULTURAL LABOR.—Paragraph (1) of section 3306(c) of such Code (defining employment) is amended to read as follows:

"(1) agricultural labor (as defined in subsection (k)) unless—

"(A) such labor is performed for a person who—

"(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)), or

"(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 10 or more individuals; and

"(B) such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a) (15) (H) of the Immigration and Nationality Act;"

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

8 USC 1184,
1101.
26 USC 3306
note.

SEC. 112. TREATMENT OF CERTAIN FARMWORKERS.

26 USC 3306.

(a) **GENERAL RULE.**—Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

“(o) **SPECIAL RULE IN CASE OF CERTAIN AGRICULTURAL WORKERS.**—

“(1) **CREW LEADERS WHO ARE REGISTERED OR PROVIDE SPECIALIZED AGRICULTURAL LABOR.**—For purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader—

“(A) if—

“(i) such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or

“(ii) substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

“(B) if such individual is not an employee of such other person within the meaning of subsection (i).

“(2) **OTHER CREW LEADERS.**—For purposes of this chapter, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1)—

“(A) such other person and not the crew leader shall be treated as the employer of such individual; and

“(B) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his behalf or on behalf of such other person) for the agricultural labor performed for such other person.

“(3) **CREW LEADER.**—For purposes of this subsection, the term ‘crew leader’ means an individual who—

“(A) furnishes individuals to perform agricultural labor for any other person,

“(B) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and

“(C) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.”

26 USC 3306
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 113. COVERAGE OF DOMESTIC SERVICE.

(a) **GENERAL RULE.**—Paragraph (2) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended to read as follows:

“(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of \$1,000 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year;”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date. 26 USC 3306 note.

SEC. 114. DEFINITION OF EMPLOYER.

(a) **GENERAL RULE.**—Subsection (a) of section 3306 of the Internal Revenue Code of 1954 (defining employer) is amended to read as follows: 26 USC 3306.

“(a) **EMPLOYER.**—For purposes of this chapter—

“(1) **IN GENERAL.**—The term ‘employer’ means, with respect to any calendar year, any person who— “Employer.”

“(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$1,500 or more, or

“(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

For purposes of this paragraph, there shall not be taken into account any wages paid to, or employment of, an employee performing domestic services referred to in paragraph (3).

“(2) **AGRICULTURAL LABOR.**—In the case of agricultural labor, the term ‘employer’ means, with respect to any calendar year, any person who—

“(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$20,000 or more for agricultural labor, or

“(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least 10 individuals in employment in agricultural labor for some portion of the day.

“(3) **DOMESTIC SERVICE.**—In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, the term ‘employer’ means, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of \$1,000 or more for such service.

“(4) **SPECIAL RULE.**—A person treated as an employer under paragraph (3) shall not be treated as an employer with respect to wages paid for any service other than domestic service referred to in paragraph (3) unless such person is treated as an employer under paragraph (1) or (2) with respect to such other service.”

(b) **TECHNICAL AMENDMENT.**—Subsection (a) of section 6157 of such Code (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended to read as follows: 26 USC 6157.

“(a) **GENERAL RULE.**—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

“(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services with respect to which the person is such an employer for such preceding calendar year (as so determined), and 26 USC 3301.

“(2) if the person is not such an employer for the preceding calendar year with respect to any services (as so determined), compute the tax imposed by section 3301 on wages paid for serv-

ices with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

“(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

“(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

Regulations.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary.”

26 USC 3306
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 115. COVERAGE OF CERTAIN SERVICE PERFORMED FOR NON-PROFIT ORGANIZATIONS AND FOR STATE AND LOCAL GOVERNMENTS.

26 USC 3309.

(a) **GENERAL RULE.**—Subparagraph (B) of section 3309(a)(1) of the Internal Revenue Code of 1954 (relating to State law requirements) is amended to read as follows:

26 USC 3306.

“(B) service excluded from the term ‘employment’ solely by reason of paragraph (7) of section 3306(c); and”.

(b) **EXCLUSION OF CERTAIN GOVERNMENT EMPLOYEES.**—

(1) **CERTAIN EMPLOYEES.**—Paragraph (3) of section 3309(b) of such Code (relating to certain services to which section 3309 does not apply) is amended to read as follows:

“(3) in the employ of a governmental entity referred to in paragraph (7) of section 3306(c), if such service is performed by an individual in the exercise of his duties—

“(A) as an elected official;

“(B) as a member of a legislative body, or a member of the judiciary, of a State or political subdivision thereof;

“(C) as a member of the State National Guard or Air National Guard;

“(D) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

“(E) in a position which, under or pursuant to the State law, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week;”.

(2) **INMATES.**—Paragraph (6) of such section 3309(b) is amended to read as follows:

“(6) by an inmate of a custodial or penal institution.”.

(c) **TECHNICAL ADJUSTMENTS.**—

26 USC 3304.

(1) Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking out “except that” and all that follows down through “, and” at the end thereof and inserting in lieu thereof the following: “except that—

“(i) with respect to services in an instructional research, or principal administrative capacity for an educational insti-

tution to which section 3309(a)(1) applies, compensation shall not be payable based on such services for any week commencing during the period between two successive academic years (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and

“(ii) with respect to services in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, and”.

(2) Subsection (d) of section 3309 of such Code is hereby repealed.

Repeal.
26 USC 3309.

(3) The section heading of section 3309 of such Code is amended to read as follows:

“SEC. 3309. STATE LAW COVERAGE OF SERVICES PERFORMED FOR NONPROFIT ORGANIZATIONS OR GOVERNMENTAL ENTITIES.”.

(4) The table of sections for chapter 23 of such Code is amended by striking out the item relating to section 3309 and inserting in lieu thereof the following:

“Sec. 3309. State law coverage of services performed for nonprofit organizations or governmental entities.”.

(5) Section 3304 of such Code is amended by adding at the end thereof the following new subsection:

26 USC 3304.

“(f) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—For purposes of subsection (a)(6), the term ‘institution of higher education’ means an educational institution in any State which—

“Institution of higher education.”

“(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

“(2) is legally authorized within such State to provide a program of education beyond high school;

“(3) provides an educational program for it which awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

“(4) is a public or other nonprofit institution.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.

26 USC 3304
note.

SEC. 116. EXTENSION OF FEDERAL UNEMPLOYMENT COMPENSATION LAW TO THE VIRGIN ISLANDS.

42 USC 1301

42 USC 501,
1101, 1321.

26 USC 3306.

Definitions.

(a) **AMENDMENT OF THE SOCIAL SECURITY ACT.**—Paragraph (1) of section 1101(a) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Such term when used in titles III, IX, and XII also includes the Virgin Islands."

(b) **AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954.**—

(1) Section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "or in the Virgin Islands" in the portion of such section which precedes paragraph (1) thereof.

(2) Section 3306(j) of such Code is amended to read as follows:

"(j) **STATE, UNITED STATES, AND AMERICAN EMPLOYER.**—For purposes of this chapter—

"(1) **STATE.**—The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

"(2) **UNITED STATES.**—The term 'United States' when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

"(3) **AMERICAN EMPLOYER.**—The term 'American employer' means a person who is—

"(A) an individual who is a resident of the United States,

"(B) a partnership, if two-thirds or more of the partners are residents of the United States,

"(C) a trust, if all of the trustees are residents of the United States, or

"(D) a corporation organized under the laws of the United States or of any State.

An individual who is a citizen of the Commonwealth of Puerto Rico or the Virgin Islands (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States."

(c) **AMENDMENT RELATING TO THE FEDERAL EMPLOYMENT SERVICE.**—Section 5(b) of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States for the promotion of such system, and for other purposes", approved June 6, 1933 (29 U.S.C. 49d(b)), is amended by striking out "Guam and the Virgin Islands" and inserting in lieu thereof "Guam".

(d) **AMENDMENTS RELATING TO EXTENDED AND EMERGENCY BENEFITS.**—

(1) Section 202(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "the Virgin Islands or".

(2) Paragraph (8) of section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(8) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands."

(3) Section 102(b)(1)(C) of the Emergency Unemployment Compensation Act of 1974 is amended by striking out "the Virgin Islands or".

(e) **AMENDMENTS RELATING TO FEDERAL UNEMPLOYMENT COMPENSATION.**—

(1) Paragraph (6) of section 8501 of title 5, United States Code, is amended to read as follows:

26 USC 3304
note.

26 USC 3304
note.

26 USC 3304
note.

“(6) ‘State’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands; and”.

(2) Section 8503 of title 5, United States Code is amended—

(A) by striking out subsections (b) and (d);

(B) by redesignating subsection (c) as subsection (b); and

(C) by striking out “subsection (a) or (b)” in subsection (b) (as so redesignated) and inserting in lieu thereof “subsection (a)”.

(3) Section 8504 of title 5, United States Code, is amended—

(A) by adding “and” at the end of paragraph (1);

(B) by striking out “; and” at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraph (3).

(4) Paragraph (3) of section 8521 of title 5 United States Code, is amended to read as follows:

“(3) ‘State’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.”

(5) Section 8522 of title 5, United States Code, is amended by striking out “or to the Virgin Islands, as the case may be.”.

(f) EFFECTIVE DATES.—

(1) SUBSECTIONS (a), (c), AND (d).—The amendments made by subsections (a), (c), and (d) shall take effect on the later of October 1, 1976, or the day after the day on which the Secretary of Labor approves under section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to him by the Virgin Islands for approval.

26 USC 3304
note.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply with respect to remuneration paid after December 31 of the year in which the Secretary of Labor approves for the first time an unemployment compensation law submitted to him by the Virgin Islands for approval, for services performed after such December 31.

26 USC 3304.

(3) SUBSECTION (e).—The amendments made by subsection (e) shall apply with respect to benefit years beginning on or after the later of October 1, 1976, or the first day of the first week for which compensation becomes payable under an unemployment compensation law of the Virgin Islands which is approved by the Secretary of Labor under section 3304(a) of the Internal Revenue Code of 1954.

(g) TRANSFER OF FUNDS.—The Secretary of Labor shall not approve an unemployment compensation law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954 until the Governor of the Virgin Islands has approved the transfer to the Federal Unemployment Trust Fund established by section 904 of the Social Security Act of an amount equal to the dollar balance credited to the unemployment subfund of the Virgin Islands established under section 310 of title 24 of the Virgin Islands Code.

26 USC 3304
note.

42 USC 1104.

PART II—TRANSITIONAL PROVISIONS

SEC. 121. FEDERAL REIMBURSEMENT FOR BENEFITS PAID TO NEWLY COVERED WORKERS DURING TRANSITION PERIOD.

26 USC 3304
note.

(a) GENERAL RULE.—If any State, the unemployment compensation law of which is approved by the Secretary under section 3304(a) of the Internal Revenue Code of 1954, provides for the payment of compensation for any week of unemployment beginning on or after January 1, 1978, on the basis of previously uncovered services, the

Secretary shall pay to the unemployment fund of such State an amount equal to the Federal reimbursement for any compensation paid for a week of unemployment beginning on or after January 1, 1978, to any individual whose base period wages include wages for previously uncovered services.

"Previously uncovered services."

(b) **PREVIOUSLY UNCOVERED SERVICES.**—For purposes of this section, the term "previously uncovered services" means, with respect to any State, services—

(1) which were not covered by the State unemployment compensation law, at any time, during the 1-year period ending December 31, 1975; and

(2) which—

26 USC 3306.

(A) are agricultural labor (as defined in section 3306(k) of the Internal Revenue Code of 1954) or domestic services referred to in section 3306(c)(2) of such Code (as in effect on the day before the date of the enactment of this Act) and are treated as employment (as defined in section 3306(c) of such Code) by reason of the amendments made by this Act; or

26 USC 3309.

(B) are services to which section 3309(a)(1) of such Code applies by reason of the amendments made by this Act.

(c) **FEDERAL REIMBURSEMENT.**—

(1) **IN GENERAL.**—For purposes of this section, the Federal reimbursement for compensation paid to any individual for any week of unemployment shall be an amount which bears the same ratio to the amount of such compensation as the amount of the individual's base period wages which are attributable to previously uncovered services which are reimbursable bears to the total amount of the individual's base period wages.

(2) **REIMBURSABLE SERVICES.**—For purposes of determining the amount of the Federal reimbursement for compensation paid to any individual for any week of unemployment, previously uncovered services shall be treated as being reimbursable—

(A) if such services were performed—

(i) before July 1, 1978, in the case of a week of unemployment beginning before July 1, 1978; or

(ii) before January 1, 1978, in the case of a week of unemployment beginning after July 1, 1978; and

26 USC 3304
note.

(B) to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was not paid to such individual on the basis of such services.

26 USC 3304
notes.

(3) **DENIAL OF PAYMENT.**—No payment may be made under subsection (a) to any State in respect of any compensation for which the State is entitled to any reimbursement under the provisions of any Federal law other than this Act or the Federal-State Extended Unemployment Compensation Act of 1970.

26 USC 3303.

(d) **EXPERIENCE RATING OF CERTAIN EMPLOYERS.**—The unemployment compensation law of any State may, without being deemed to violate the standards set forth in section 3303(a) of the Internal Revenue Code of 1954, provide that the experience-rating account of any employer shall not be charged for the compensation paid to any individual whose base period wages includes wages for previously uncovered services which are reimbursable under subsection (c)(2) to the extent that such individual would not have been eligible to receive such compensation had the State law not provided for the pay-

ment of compensation on the basis of such previously uncovered services.

(e) **CERTAIN NONPROFIT EMPLOYERS.**—The unemployment compensation law of any State may provide that any organization which elects to make payments (in lieu of contributions) into the State unemployment compensation fund as provided in section 3309(a)(2) of the Internal Revenue Code of 1954 shall not be liable to make such payments with respect to the compensation paid to any individual whose base period wages includes wages for previously uncovered services which are reimbursable under subsection (c)(2) to the extent that such individual would not have been eligible to receive such compensation had the State not provided for the payment of compensation on the basis of such previously uncovered services.

26 USC 3309.

(f) **PAYMENTS MADE MONTHLY.**—Payments under subsection (a) shall be made monthly, prior to audit or settlement by the General Accounting Office, on the basis of estimates by the Secretary of the amount payable to such State for such month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior month were greater or less than the amounts which should have been paid to such State. Such estimates may be made on the basis of such statistical, sampling, or other methods as may be agreed upon by the Secretary and the State.

(g) **DEFINITIONS.**—For purposes of this section—

(1) **STATE.**—The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Labor.

(3) **BENEFIT YEAR.**—The term “benefit year” means the benefit year as defined in the applicable State unemployment compensation law.

(4) **BASE PERIOD.**—The term “base period” means the base period as defined by the applicable State unemployment compensation law for the benefit year.

(5) **UNEMPLOYMENT FUND.**—The term “unemployment fund” has the meaning given to such term by section 3306(f) of the Internal Revenue Code of 1954.

26 USC 3306.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated from the general fund of the Treasury such sums as may be necessary to carry out the purposes of this section.

SEC. 122. TRANSITIONAL RULES IN CASE OF NONPROFIT ORGANIZATIONS.

(a) **CREDIT FOR PRIOR CONTRIBUTIONS.**—Section 3303 of the Internal Revenue Code of 1954 (relating to conditions of additional credit allowance) is amended by adding at the end thereof the following new subsection:

26 USC 3303.

“(g) **TRANSITIONAL RULE FOR UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976.**—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies by reason of the enactment of the Unemployment Compensation Amendments of 1976, a State law may provide that an organization (or group of organizations) which elects, when such election first becomes available under the State law with respect to such service, to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions into such fund under the State law with respect to such service performed in its employ before the date of the enactment of this subsection, is not

Ante, p. 2667.

required to make any such payment (in lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to such service performed in its employ, until the total of such compensation equals the amount—

26 USC 3309. “(1) by which the contributions paid by such organization (or group) on the basis of wages for such service with respect to a period before the election provided by section 3309(a)(2), exceed

“(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of such service performed in its employ or wages paid for such service, whichever is appropriate.”

26 USC 3303. (b) TECHNICAL AMENDMENT.—Section 3303(f) of such Code (relating to transition to coverage of certain services) is amended by striking out “which elects, when such election first becomes available under the State law,” and inserting in lieu thereof “which elects before April 1, 1972.”

26 USC 3303 note. (c) EFFECTIVE DATES.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on January 1, 1970.

TITLE II—FINANCING PROVISIONS

SEC. 211. INCREASE IN FEDERAL UNEMPLOYMENT TAX WAGE BASE AND RATE.

26 USC 3306. (a) INCREASE IN WAGE BASE.—Paragraph (1) of section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out “\$4,200” each place it appears and inserting in lieu thereof “\$6,000”.

26 USC 3301. (b) INCREASE IN TAX RATE.—Section 3301 of such Code (relating to rate of Federal unemployment tax) is amended to read as follows: “SEC. 3301. RATE OF TAX.

“There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employ, equal to—

42 USC 1105. “(1) 3.4 percent, in the case of a calendar year beginning before the first calendar year after 1976, as of January 1 of which there is not a balance of repayable advances made to the extended unemployed compensation account (established by section 905(a) of the Social Security Act); or

“(2) 3.2 percent, in the case of such first calendar year and each calendar year thereafter;

of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)).”

(e) TECHNICAL AMENDMENTS.—

42 USC 1101. (1) Subparagraph (C) of section 901(c)(3) of the Social Security Act is amended to read as follows:

26 USC 3301. “(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.7 percent in the case of any calendar year for which the rate of tax under such section 3301 is 3.4 percent.”

(2) The last sentence of section 905(b)(1) of such Act is amended to read as follows: "In the case of any month after March 1977 and before April of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting 'five-fourteenths' for 'one-tenth'." 42 USC 1105.
26 USC 3301.

(3) The last sentence of section 6157(b) of the Internal Revenue Code of 1954 is amended to read as follows: "In the case of wages paid in any calendar quarter or other period during a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.7 percent in lieu of 0.5 percent." 26 USC 6157.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1977. 26 USC 3306 note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to remuneration paid after December 31, 1976. 26 USC 3301 note.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act. 42 USC 1101 note.

SEC. 212. DENIAL OF CERTAIN PAYMENTS UNDER THE EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(4) The amount which, but for this paragraph, would be payable under this subsection to any State in respect of any compensation paid to an individual whose base period wages include wages for services to which section 3306(c)(7) of the Internal Revenue Code of 1954 applies shall be reduced by an amount which bears the same ratio to the amount which, but for this paragraph, would be payable under this subsection to such State in respect of such compensation as the amount of the base period wages attributable to such services bears to the total amount of the base period wages." 26 USC 3304 note.
26 USC 3306.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to compensation paid for weeks of unemployment beginning on or after January 1, 1979.

SEC. 213. ADVANCES TO STATE UNEMPLOYMENT FUNDS.

(a) ADVANCES TO BE MADE FOR 3-MONTH PERIODS.—Paragraph (1) of section 1201(a) of the Social Security Act is amended—

(1) by striking out "any month" and inserting in lieu thereof "any 3-month period"; 42 USC 1321.

(2) by striking out "the preceding month" and inserting in lieu thereof "the month preceding the first month of such 3-month period"; and

(3) by striking out "such month" and inserting in lieu thereof "each month of such 3-month period".

(b) APPLICATIONS.—Paragraph (2) of such section 1201(a) is amended—

(1) by striking out "any month" each place it appears and inserting in lieu thereof "any 3-month period", and

(2) by striking out "such month" each place it appears and inserting in lieu thereof "each month of such 3-month period".

(c) Section 1201(b) of such Act is amended—

(1) by inserting "in monthly installments" immediately after "transfer" where it first appears therein, and

(2) by adding at the end thereof the following new sentence:
 “The amount of any monthly installment so transferred shall not exceed the amount estimated by the State to be required for the payment of compensation for the month with respect to which such installment is made.”

42 USC 1321
 note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 214. PRORATION OF COSTS OF CLAIMS FILED JOINTLY UNDER STATE LAW AND SECTION 8505 OF TITLE 5, UNITED STATES CODE.

(a) **GENERAL RULE.**—Section 8505(a) of title 5, United States Code, is amended to read as follows:

“(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.”

(b) **TECHNICAL AMENDMENT.**—Section 8501 of title 5, United States Code, is amended by striking out “and” at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof “; and”, and by adding at the end thereof the following new paragraph:

“(8) ‘base period’ means the base period as defined by the applicable State unemployment compensation law for the benefit year.”

5 USC 8501 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with regard to compensation paid on the basis of claims for compensation filed on or after July 1, 1977.

TITLE III—BENEFIT PROVISIONS

SEC. 311. AMENDMENTS TO THE TRIGGER PROVISIONS OF THE EXTENDED PROGRAM.

(a) **NATIONAL “ON” AND “OFF” INDICATORS.**—Subsection (d) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

26 USC 3304
 note.

“(d) For purposes of this section—

“(1) There is a national ‘on’ indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

“(2) There is a national ‘off’ indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).”

(b) **STATE “ON” AND “OFF” INDICATORS.**—Subsection (e) of section 203 of such Act is amended to read as follows:

“(e) For purposes of this section—

“(1) There is a State ‘on’ indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—

“(A) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

“(B) equaled or exceeded 4 per centum.

“(2) There is a State ‘off’ indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) is not satisfied.

Effective with respect to compensation for weeks of unemployment beginning after March 30, 1977 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State ‘on’ or ‘off’ indicator beginning or ending any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, and (ii) the figure ‘4’ contained in subparagraph (B) thereof were ‘5’; except that, notwithstanding any such provision of State law, any week for which there would otherwise be a State ‘on’ indicator shall continue to be such a week and shall not be determined to be a week for which there is a State ‘off’ indicator. For purposes of this subsection, the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.”

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) of this section shall apply to weeks beginning after December 31, 1976, and the amendments made by subsection (b) of this section shall apply to weeks beginning after March 30, 1977.

SEC. 312. PREGNANCY DISQUALIFICATIONS.

(a) **GENERAL RULE.**—Paragraph (12) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended to read as follows: 26 USC 3304.

“(12) no person shall be denied compensation under such State law solely on the basis of pregnancy or termination of pregnancy;”.

(b) **TECHNICAL AMENDMENT.**—Subsection (c) of section 3304 of such Code (relating to certification of State unemployment compensation laws) is amended by adding at the end thereof the following new sentence: “On October 31 of any taxable year after 1977, the Secretary shall not certify any State which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the Unemployment Compensation Amendments of 1976 to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years. 26 USC 3304 note.

SEC. 313. REPEAL OF FINALITY PROVISION.

(a) **GENERAL RULE.**—Section 8506(a) of title 5, United States Code, is amended by striking out the fifth sentence.

5 USC 8506 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to findings made after the date of the enactment of this Act.

SEC. 314. DENIAL OF UNEMPLOYMENT COMPENSATION TO ATHLETES, ILLEGAL ALIENS, AND RECIPIENTS OF RETIREMENT BENEFITS.

26 USC 3304.

(a) **GENERAL RULE.**—Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by redesignating paragraph (13) as paragraph (16) and by inserting after paragraph (12) the following new paragraphs:

“(13) compensation shall not be payable to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods);

“(14) (A) compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act),

8 USC 1153,
1182.

“(B) any data or information required of individuals applying for compensation to determine whether compensation is not payable to them because of their alien status shall be uniformly required from all applicants for compensation, and

“(C) in the case of an individual whose application for compensation would otherwise be approved, no determination by the State agency that compensation to such individual is not payable because of his alien status shall be made except upon a preponderance of the evidence;

“(15) the amount of compensation payable to an individual for any week which begins after September 30, 1979, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week;”.

26 USC 3304
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to certifications of States for 1978 and subsequent years, or for 1979 and subsequent years in the case of States the legislatures of which do not meet in a regular session which closes in the calendar year 1977.

TITLE IV—NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

SEC. 411. NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSA- TION.

26 USC 3304
note.

(a) **ESTABLISHMENT OF COMMISSION.**—There is established a National Commission on Unemployment Compensation (hereinafter in this section referred to as the “Commission”) which shall consist of thirteen members who shall be appointed as follows:

(1) Three members appointed by the President pro tempore of the Senate.

(2) Three members appointed by the Speaker of the House of Representatives.

(3) Seven members appointed by the President.

In making appointments under the preceding sentence, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the President shall consult with each other to insure that there will be a balanced representation of interested parties on the Commission. The Commission shall consist of at least one representative of labor, industry, the Federal Government, State government, local government, and small business. The President shall designate one of the members to serve as Chairman of the Commission. Seven members shall constitute a quorum. Any vacancies in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(b) **DUTIES OF THE COMMISSION.**—The Commission shall study and evaluate the present unemployment compensation programs in order to assess the long-range needs of the programs, to develop alternatives, and to recommend changes in the programs. Such study and evaluation shall include, without being limited to—

(1) examination of the adequacy, and economic and administrative impacts, of the changes made by this Act in coverage, benefit provisions, and financing;

(2) identification of appropriate purposes, objectives, and future directions for unemployment compensation programs; including railroad unemployment insurance;

(3) examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) examination of (A) the problems of claimant fraud and abuse in the unemployment compensation programs (B) the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse and (C) problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems;

(6) examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(7) examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

(8) conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to formulate appropriate recommendations, and to obtain relevant information, attitudes, opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

(9) review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

(10) identification of any weaknesses in such method and any problem which results from the operation of such method;

(11) formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics; and

(12) examination of the feasibility and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance program.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission, or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this section, hold such hearing, take such testimony, receive such evidence, take such oaths and sit and act at such times and places as the Commission may deem appropriate and may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(A) appoint and fix the compensation of an executive director, and such additional personnel as he deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the executive director may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of such title and any additional personnel may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-15 of such General Schedule, and

(B) obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(3) CONTRACTS.—The Commission is authorized to negotiate and enter into contracts with organizations, institutions, and individuals to carry out such studies, surveys, or research and prepare such reports as the Commission determines are necessary in order to carry out its duties.

(d) COOPERATION OF OTHER FEDERAL AGENCIES.—

(1) INFORMATION.—Each department, agency, and instrumentality of the Federal Government is authorized and directed to

furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

(2) **SERVICES.**—The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

(3) **DEPARTMENT OF LABOR.**—The Department of Labor shall provide support for the Commission and shall perform such other functions with respect to the Commission as may be required by the provisions of the Federal Advisory Committee Act.

(e) **PAY AND TRAVEL EXPENSES.**—

(1) **MEMBERS SERVE WITHOUT PAY.**—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(f) **INTERIM REPORT.**—The Commission shall transmit to the Congress not later than March 31, 1978, an interim report.

(g) **FINAL REPORT.**—The Commission shall transmit to the President and the Congress not later than January 1, 1979, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

(h) **TERMINATION.**—On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. REFERRAL OF BLIND AND DISABLED INDIVIDUALS UNDER AGE 16, WHO ARE RECEIVING BENEFITS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM, FOR APPROPRIATE REHABILITATION SERVICES.

(a) **IN GENERAL.**—Section 1615 of the Social Security Act is amended to read as follows: 42 USC 1382d.

“REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

“SEC. 1615. (a) In the case of any blind or disabled individual who—

“(1) has not attained age 65, and

“(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for voca-

29 USC 31 note.

Criteria by
regulation.

tional rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

"(b) (1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

"(A) assuring appropriate counseling for disabled children referred pursuant to subsection (a) and their families,

"(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

"(C) monitoring to assure adherence to such service plans, and

"(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(2) Such criteria shall include—

"(A) administration—

"(i) by the agency administering the State plan for crippled children's services under title V of this Act, or

"(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

"(B) coordination with other agencies serving disabled children; and

"(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

"(c) Every individual age 16 or over with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which he is referred under subsection (a).

"(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act the costs incurred under such plan in the provision of rehabilitation services to individuals referred for such services pursuant to subsection (a).

"(c) (1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (b) of this section, the costs incurred

each fiscal year which begins after September 30, 1976, and ends prior to October 1, 1979, in carrying out the State plan approved pursuant to such subsection (b).

“(2) (A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 per centum thereof shall be paid with respect to costs incurred with respect to activities described in subsection (b) (1) (A), (B), and (C).

“(B) Whenever there are provided pursuant to this section to any child services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

“(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of the type involved for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

“(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to \$30,000,000 as the under age 7 population of such State (and for purposes of this section the District of Columbia shall be regarded as a State) bears to the under age 7 population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year.”

(b) PUBLICATION OF CRITERIA.—The Secretary shall, within 120 days after the enactment of this subsection, publish criteria to be employed to determine disability (as defined in section 1614(a) (3) of the Social Security Act) in the case of persons who have not attained the age of 18.

42 USC 1382d
note.

42 USC 1382c.

SEC. 502. INCOME OF EACH MEMBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN INSTITUTION.

Section 1611(e) (1) (B) (ii) of the Social Security Act is amended to read as follows:

42 USC 1382.

“(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home or facility throughout such month, at a rate not in excess of the sum of—

“(I) the rate of \$300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

42 USC 1382a.

“(II) the applicable rate specified in subsection (b) (1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other) ; and”.

SEC. 503. PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO BE ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS.

42 USC 1396a
note.

In addition to other requirements imposed by law as a condition for the approval of any State plan under title XIX of the Social

42 USC 1396.

42 USC 401.

42 USC 1381.

Security Act, there is hereby imposed the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual, for any month after June 1977 for which such individual is entitled to a monthly insurance benefit under title II of such Act but is not eligible for benefits under title XVI of such Act, in like manner and subject to the same terms and conditions as are applicable under such State plan in the case of individuals who are eligible for and receiving benefits under such title XVI for such month, if for such month such individual would be (or could become) eligible for benefits under such title XVI except for amounts of income received by such individual and his spouse (if any) which are attributable to increases in the level of monthly insurance benefits payable under title II of such Act which have occurred pursuant to section 215(i) of such Act, in the case of such individual, since the last month after April 1977 for which such individual was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II, and, in the case of such individual's spouse (if any), since the last such month for which such spouse was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II. Solely for purposes of this section, payments of the type described in section 1616(a) of the Social Security Act or of the type described in section 212(a) of Public Law 93-66 shall be deemed to be benefits under title XVI of the Social Security Act.

42 USC 1382e.

87 Stat. 155.

SEC. 504. STATE SUPPLEMENTATION OF BENEFITS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM.

42 USC 1382e
note.

(a) LIMITATION ON STATE COSTS.—Section 401(a)(2) of the Social Security Amendments of 1972 is amended—

(1) by inserting “(subject to the second sentence of this paragraph)” immediately after “Act” where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: “In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977, and before July 1, 1979.”

(b) EFFECTIVE DATE.—The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

42 USC 1382.

SEC. 505. ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act is amended by striking out “subparagraph (B)” in subparagraph (A) and inserting in lieu thereof “subparagraph (B) and (C)”; and by adding at the end thereof the following new subparagraph:

“Public
institution.”

“(C) As used in subparagraph (A), the term ‘public institution’ does not include a publicly operated community residence which serves no more than 16 residents.”

42 USC 1382a.

(b) CONFORMING AMENDMENT.—Section 1612(b)(6) of such Act is amended by striking out “assistance described in section 1616(a) which” and inserting in lieu thereof “assistance, furnished to or on behalf of such individual (and spouse), which”.

(c) **REPEAL OF LIMITATION ON PAYMENT.**—Section 1616(e) of such Act is repealed. Repeal.
42 USC 1382e.

(d) **STATES TO ESTABLISH STANDARDS.**—Effective October 1, 1977, section 1616(e) of such Act is amended to read as follows: State standards.

“(e) (1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

“(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 2004 of this Act, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement. Annual public review.
42 USC 1397c.

“(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection. Annual certification.

“(4) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution of the type described in paragraph (1) to such individual as a resident or an inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities.” Payments to individuals.

(e) **EFFECTIVE DATE.**—The amendments and repeals made by this section, unless otherwise specified therein, shall take effect on October 1, 1976. 42 USC 1382 note.

SEC. 506. ELECTION OF LOCAL GOVERNMENTS TO USE REIMBURSEMENT METHOD.

(a) **IN GENERAL.**—Paragraph (2) of section 3309(a) of the Internal Revenue Code of 1954 (relating to State law requirements) is amended— 26 USC 3309.

(1) by striking out “an organization” and inserting in lieu thereof “a governmental entity or any other organization”,

(2) by striking out “paragraph (1)(A)” and inserting in lieu thereof “paragraph (1)”, and

(3) by striking out “that organizations” and inserting in lieu thereof “that governmental entities or other organizations”.

(b) **TECHNICAL AMENDMENT.**—Subparagraph (B) of section 3304 (a)(6) of such Code is amended by striking out “section 3309(a)(1)(A)” and inserting in lieu thereof “section 3309(a)(1)”. 26 USC 3304.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977. 26 USC 3304 note.

SEC. 507. AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION.

42 USC 607.

(a) **IN GENERAL.**—Section 407(b)(2) of the Social Security Act is amended—

- (1) by striking out “and” at the end of subparagraph (B); and
- (2) by striking out subparagraph (C) and inserting in lieu thereof the following:

“(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

“(i) if and for so long as such child’s father, unless exempt under section 402(a)(19)(A), is not registered pursuant to such section for the work incentive program established under part C of this title, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 432(a), is not registered with the public employment offices in the State, and

“(ii) with respect to any week for which such child’s father qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and

“(D) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child’s father receives under an unemployment compensation law of a State or of the United States.”.

(b) **CONFORMING PROVISION.**—Section 407(d)(3) of such Act is amended by inserting “, for purposes of section 407(b)(1)(C),” before “be deemed”.

42 USC 607 note.

(c) **EFFECTIVE DATE.**—The amendments made by the preceding provisions of this section shall be effective with respect to months after (and weeks beginning in months after) the date of the enactment of this Act.

(d) **SIMPLIFICATION OF PROCEDURES.**—Section 407 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

“(e) The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed fathers and other unemployed persons in such State in registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title and in registering with public employment offices (under this section and otherwise) or in connection with applications for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both the work incentive program and the applicable unemployment compensation laws.”.

42 USC 602.

42 USC 630 *et*

seq.

SEC. 508. STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PROGRAMS.

(a) **IN GENERAL.**—Section 3(a) of the Act entitled “An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes”, approved June 6, 1933 (29 U.S.C. 49b(a)), is amended by adding at the end thereof the following new sentence: “It shall be the further duty of the bureau to assure that such employment offices in each State, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is hereby authorized to) furnish to such agency making the request, from any data contained in the files of any such employment office, information with respect to any individual specified in the request as to (A) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (B) the current (or most recent) home address of such individual, and (C) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and terms, conditions, and rate of pay therefor.”.

42 USC 601 *et seq.*

42 USC 651 *et seq.*

(b) **PROVISION FOR REIMBURSEMENT OF EXPENSES.**—For purposes of section 403 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices pursuant to the third sentence of section 3(a) of the Act entitled “An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes”, approved June 6, 1933 (29 U.S.C. 49b(a)), by a State or local agency administering a State plan approved under part A of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan; and for purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information so requested by a State or local agency charged with the duty of carrying out a State plan for child support approved under part D of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan.

42 USC 603a

42 USC 655.

TITLE VI—SPECIAL UNEMPLOYMENT ASSISTANCE AMENDMENTS

SEC. 601. EXTENSION OF SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM.

(a) Section 208 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended to read as follows:

26 USC 3304 note.

“TERMINATION DATE

“SEC. 208. Notwithstanding any other provision of this part, no payment of assistance under this part shall be made to any individual with respect to any week of unemployment ending after June 30,

1978; and no individual shall be entitled to any assistance under this part with respect to any initial claim for assistance or waiting period credit which is effective in a week beginning after December 31, 1977.”

SEC. 602. ELIMINATION OF SPECIAL BASE PERIOD FOR PAYMENTS OF SPECIAL UNEMPLOYMENT ASSISTANCE.

26 USC 3304
note.

(a) Paragraph (1) of section 203(a) of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by striking out “*Provided, That*” and all that follows down through “; and” at the end thereof and inserting in lieu thereof the following: “*Provided, That* the individual meets the qualifying employment and wage requirements of the applicable State unemployment compensation law in the base period; and, for purposes of this proviso, employment and wages which are not covered by the State law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages; and”.

(b) Subsection (a) of section 205 of such Act is amended by striking out “law: *Provided, That*” and all that follows down through the period at the end thereof and inserting in lieu thereof the following: “law. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.”.

(c) Subsection (a) of section 206 of such Act is amended by striking out “section 205: *Provided, That*” and all that follows down through the period at the end thereof and inserting in lieu thereof the following: “section 205. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.”.

(d) Subsection (a) of section 210 of such Act is amended—

(1) by striking out “and” at the end of paragraph (5); and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

“(6) ‘special unemployment assistance benefit year’ means the benefit year as defined by the applicable State unemployment compensation law; and

“(7) ‘base period’ means the base period as determined under the applicable State unemployment compensation law.”.

Applicability

(e) The amendments made by this section shall apply with respect to benefit years beginning after December 31, 1976. In the case of any benefit year of an individual which begins after December 31, 1976, for purposes of sections 203(a) (1), 205(a), and 206(a) of the Emergency Jobs and Unemployment Assistance Act of 1974, there shall not

be taken into account any employment and wages to the extent that such individual was entitled on the basis of such employment and wages to assistance under such Act during a benefit year beginning before January 1, 1977.

SEC. 603. DENIAL OF SPECIAL UNEMPLOYMENT ASSISTANCE TO NON-PROFESSIONAL EMPLOYEES OF EDUCATIONAL INSTITUTIONS DURING PERIODS BETWEEN ACADEMIC TERMS.

(a) Section 203 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new subsection:

26 USC 3304
note.

“(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if—

“(1) such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

“(2) there is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.”

(b) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

Applicability

SEC. 604. MODIFICATION OF AGREEMENTS.

The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 202 of the Emergency Jobs and Unemployment Assistance Act of 1974 a modification of such agreement designed to provide for the payment of special unemployment assistance under such Act in accordance with the amendments made by sections 601, 602, and 603 of this title. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before the last day of such three-week period.

Ante, p. 2689.

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-755 (Comm. on Ways and Means) and No. 94-1745 (Comm. of Conference).

SENATE REPORT No. 94-1265 (Comm. on Finance).

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July 19, 20, considered and passed House.

Sept. 29, considered and passed Senate, amended.

Oct. 1, House and Senate agreed to conference report; House receded and concurred in certain Senate amendments and to others with amendments; Senate agreed to House amendments.

Report of the Committee on
Finance, to accompany
H.R. 10210, Senate Report
No. 94-1265.

Unemployment Compensation Amendments of 1976

Description of the Provisions of H.R. 10210
(Public Law 94-566)

Prepared by the Staffs of the
COMMITTEE ON FINANCE
OF THE
U.S. SENATE
AND THE
COMMITTEE ON WAYS AND MEANS
OF THE
U.S. HOUSE OF REPRESENTATIVES



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House Committee on Ways and Means

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UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976—DESCRIPTION OF THE PROVISIONS OF H.R. 10210

I. Unemployment Compensation Provisions

A. COVERAGE PROVISIONS

Farmworkers.—In the past, farm employment has been exempt from the Federal unemployment tax. As a result, protection of farmworkers under unemployment compensation programs has been a matter of State option. H.R. 10210 makes the Federal unemployment tax applicable to farm employment if the farm operator, in either the current year or the preceding year, has a payroll of at least \$20,000 in any calendar quarter or has 10 or more employees in 20 weeks during the year. This extension of the Federal unemployment payroll tax has the effect of bringing farm employment meeting these criteria within the coverage of all State unemployment compensation programs. Coverage is effective as of January 1978.

In the case of farmworkers who are hired by a farm labor contractor ("crew leader") rather than by the farm operator, the bill provides that the crew leader will be considered the employer and thus be responsible for paying the unemployment tax and submitting the required reports if he provides the service of mechanized equipment—crop dusting, mechanized harvesting, et cetera—or if he is registered under the Farm Labor Contractor Registration Act. Since that act now requires registration for most crew leaders—an exception is made for those operating both within a 25-mile radius of their homes and for no more than 13 weeks per year—H.R. 10210 generally makes the crew leader the employer. The bill provides, however, that the farm operator be considered the employer in cases where the crew leader is in fact the farmer's own employee and in cases where the farmer and the crew leader have a written agreement under which the farm operator will act as employer for unemployment compensation purposes.

The bill exempts from unemployment compensation coverage aliens who are brought into the United States on a temporary basis to work during peak agricultural crop seasons under sections 101(a)(15)(H) and 214(c) of the Immigration and Nationality Act. This exemption from coverage expires January 1, 1980.

Under the provisions of H.R. 10210, an estimated 459,600 farm jobs and 17,400 farm employers will be subject to the Federal unemployment tax. This represents 40 percent of all farm employment and 2 percent of all farm operators.

State and local government employees.—State and local government employment is exempt from the Federal unemployment payroll tax. However, under legislation enacted in 1970, the States were required to provide unemployment insurance for employees of State operated hospitals and institutions of higher education. In addition, about one-half of the States have gone beyond the Federal requirements and provide mandatory coverage for State employees and permit local governments to opt for coverage.

Under H.R. 10210, State and local government employment will continue to be exempt from the Federal unemployment payroll tax. States will be required, however, to provide State coverage for such employment as a condition of continued participation in the Federal-State unemployment compensation program. (Failure to participate would, in effect, raise the Federal unemployment tax on employers in the State from 0.7 to 3.4 percent and would deprive the State of Federal funds to meet administrative expenses and part of the benefit costs for benefits paid after the 26th week of unemployment.)

All State and local government employees will be covered except elected officials, members of the legislature or judiciary, persons in policymaking or advisory positions which are designated as major, nontenured positions or as ordinarily requiring less than 8 hours work per week, members of the National Guard, prisoners, and persons hired for temporary jobs in emergency situations. With the above exceptions, all employment after December 31, 1977 will be covered. Under the bill, the State law will have to permit the employing entity to determine whether to pay for its coverage through contributions equivalent to the State payroll tax or by reimbursing the fund retroactively for benefits paid to its former employees.

The provisions of H.R. 10210 extend coverage under the unemployment compensation program to approximately 588,000 State employees who are not now covered and to about 7.7 million employees of local governments.

Payment to school employees during vacation periods.—H.R. 10210 requires that benefits be denied during vacation periods between academic terms (or years) to professional school employees who have a contract for, or reasonable assurance of, reemployment during the upcoming term (or year). The bill also permits States to deny benefits during vacation periods on the same basis to nonprofessional school employees.

Extended benefit costs.—At present, the Federal extended benefit account in the unemployment trust fund pays one-half of the costs of benefits under the Federal-State Extended Unemployment Compensation Act. That act provides in times of high unemployment for up to 13 weeks of added benefits after a worker exhausts his regular benefit eligibility. This 50 percent Federal funding is provided from the Federal unemployment payroll tax. H.R. 10210 includes a provision which eliminates this 50 percent Federal funding for the cost of extended benefits for State and local government employees, whose employment is exempt from the Federal tax. (The Federal accounts

will continue to pay the administrative costs attributable to coverage of employees of State and local governments.)

Elementary and secondary nonprofit schools.—Prior to the 1970 amendments, nonprofit organizations, which are exempt from taxation under the Internal Revenue Code, were covered as employers for unemployment compensation purposes only at the option of the States. The 1970 amendments required States to provide coverage for nonprofit employers who have at least four employees in at least 20 weeks of the year. However, an exception in the law allowed States to exclude from coverage nonprofit elementary and secondary schools. H.R. 10210 repeals this exclusion, thus requiring coverage for such schools on the same basis as it has been required for other nonprofit entities.

Domestic workers.—Domestic employment in private households has been exempt from the Federal unemployment payroll tax and such employment has been covered under State unemployment compensation programs in only three States. H.R. 10210 makes such employment subject to the unemployment tax, effective January 1978 (and, therefore, effectively requires its coverage under State programs) in the case of any employer who pays domestic wages of \$1,000 or more in any calendar quarter of the current or preceding year. It is estimated that this will result in coverage for some 128,000 domestic jobs.

Transitional benefits.—The new coverage provided under H.R. 10210 for agricultural workers, domestic employees, employees of State and local governments and of certain nonprofit schools is effective as of 1978. As of January 1, 1978, newly covered workers will begin accumulating wage credits necessary to qualify for unemployment compensation should they become unemployed. In most States these workers will not have accumulated enough wage credits to qualify for benefits until the last quarter of 1978. The transition provisions in H.R. 10210 provide that, if a State agrees to pay benefits to newly covered workers as of January 1, 1978, benefits paid through June 30, 1978, based on wage credits earned prior to that date, will be reimbursed from Federal general revenues. States will also be reimbursed after June 30, 1978 in cases where they pay benefits based on newly covered wages earned prior to January 1, 1978.

Inclusion of Virgin Islands.—Under prior Federal law, the Virgin Islands was excluded from the Federal-State system of unemployment insurance. The Virgin Islands has for several years had a similar unemployment insurance program, however, and the territorial government has formally requested that the Virgin Islands be included in the Federal-State system.

The inclusion of the Virgin Islands in the Federal-State unemployment system is provided for in H.R. 10210. This extends to that jurisdiction the Federal unemployment tax and thus increases slightly the revenues to the Federal accounts in the unemployment trust fund. At the same time, H.R. 10210 provides new or modified funding for the Virgin Islands programs as shown in the table below:

FUNDING CHANGES FOR VIRGIN ISLANDS UNEMPLOYMENT PROGRAM UNDER H.R. 10210

Expenditure type	Current funding	Funding under H.R. 10210
Regular benefits.....	Territorial tax.....	Territorial tax.
Administrative costs:		
Compensation system.....	do.....	Federal trust fund accounts.
Employment service....	Federal general funds.	Federal trust fund accounts and general funds.
Extended benefits.....	Not in effect.....	50 percent territorial tax, 50 percent Federal trust fund accounts.
Loans.....	Federal general funds.	Federal trust fund accounts.

B. FINANCING PROVISIONS

Increase in Federal unemployment tax rate.—H.R. 10210 increases the gross Federal unemployment tax rate from 3.2 percent to 3.4 percent while leaving the tax credit at 2.7 percent. This adds 0.2 percent to the net Federal tax rate raising it from the present level of 0.5 to a new level of 0.7 percent. This increased tax rate will take effect in January 1977 and will continue in effect until all general revenue advances to the extended benefit account in the unemployment trust fund have been repaid, after which the existing 0.5 percent net tax rate will again become applicable. The increase in the net Federal tax rate will affect only the amounts collected by the Federal trust fund accounts.

Increase in taxable earnings.—H.R. 10210 also increases from \$4,200 to \$6,000 the amount of annual earnings subject to taxation. This increase is effective January 1978 and affects both Federal and State taxes. Since States set their own tax rates and may adjust their tax rates to take account of the new tax base, the exact impact of the increase on State revenues will depend upon subsequent action by the States.

Timing of loans to States.—When States find it necessary to borrow from the Federal accounts in the unemployment trust fund to meet their unemployment benefit obligations, prior law required that the funds borrowed for any month be applied for in the preceding month. H.R. 10210 includes a provision permitting States to apply for loans covering a 3-month period. Under this provision, States will be able to make a single application covering the 3-month period, but the advances will continue to be paid out to the States on a month-by-month basis.

Costs of benefits to former Federal employees.—When unemployment benefits are paid by a State to a former member of the armed

services or Federal employee, the costs of the benefits attributable to Federal employment are funded from Federal general revenues and the costs, if any, resulting from non-Federal employment are paid from State funds. At present, the amount of Federal reimbursement is determined by computing the amount of benefits actually paid to an individual over and above the compensation which would have been paid if his Federal employment had not been used in computing his benefits. H.R. 10210 provides instead that the Federal and State portions of the cost of benefits will be based on the relative Federal and non-Federal wages of the individual during the base period on which his unemployment compensation is computed. Thus, if an individual had \$4,000 of wages in his base period and \$1,000 of these wages came from a Federal agency employer, 25 percent of his unemployment benefits would be paid for from Federal general revenues.

C. EXTENDED BENEFIT TRIGGERS

The Federal-State Extended Unemployment Compensation Act of 1970 provides for the payment of additional weeks of benefits to individuals who exhaust their benefit entitlement under the regular State programs. The additional entitlement provides the same weekly benefit amount as the regular entitlement and continues for half as long as the regular entitlement. Thus, an individual entitled to the maximum duration of 26 weeks of regular benefits could receive up to 13 additional weeks of extended benefits. Half the funding of the extended benefits comes from State unemployment taxes and half comes from the Federal tax.

Change in national trigger.—Benefits under the extended benefit program are payable only in periods of high unemployment. Permanent law makes the program effective in all States when the national insured unemployment rate on a seasonally adjusted basis reaches 4.5 percent for 3 consecutive months, and the program continues in effect until that rate declines below 4.5 percent for 3 consecutive months. (A temporary provision which expires December 31, 1976 permits States to participate in the extended benefit program when the national trigger rate is 4 percent rather than 4.5 percent.) H.R. 10210 modifies the permanent law by providing that the program will be in effect in all States when the seasonally adjusted 4.5 percent national insured unemployment rate for a given week and the 12 previous weeks (rather than for 3 consecutive months) averages 4.5 percent or more and will cease to be in effect when that rate averages less than 4.5 percent.

Change in State trigger.—From December 1971 to November 1974, the national insured unemployment rate was below the permanent law 4.5 percent rate which triggers the extended benefit program into operation in all States. When the national trigger is "off," States participate in the program only if the State trigger requirements are met. Under permanent law, the extended unemployment compensation program becomes effective in a State when two requirements are met. The rate of insured unemployment in the State (not seasonally adjusted) must reach a level of 4 percent or more averaged over a 13-week period and the rate for that 13-week period must be at least 20 percent higher than the average of the State insured unemployment

rate in the same 13-week period of the preceding 2 years. H.R. 10210 retains the permanent law provisions with respect to State triggers. However, the bill permits States to waive the "20 percent higher" requirement whenever the rate of insured unemployment in the State is at least 5 percent. This provision is effective after March 1977 when the existing waiver of the "20 percent higher" provision expires.

D. PROVISIONS RELATED TO BENEFIT ELIGIBILITY

Disqualification for pregnancy.—In order to qualify for unemployment compensation benefits, a worker must be able to work, be seeking work, and be available for work. In a number of States, an individual whose unemployment is related to pregnancy has been barred from receiving any unemployment benefits. In 1975 the Supreme Court found a provision of this type in the Utah unemployment compensation statute to be unconstitutional. H.R. 10210 will prohibit States from continuing to enforce any provision which denies unemployment compensation benefits solely on the basis of pregnancy (or recency of pregnancy). Pregnant individuals will, however, continue to be required to meet generally applicable criteria of seeking work, availability for work, and ability to work.

Finality of Federal agency findings.—State unemployment compensation agencies are required to grant an impartial hearing to persons whose claims for unemployment benefits are denied. In any case where all or part of the employment on which benefits are to be based was with a Federal agency, however, the findings of that agency have not been subject to review by a State agency hearing officer insofar as they concern: the fact of Federal employment, the period of Federal service and amount of Federal wages, or the reasons for terminating Federal employment.

H.R. 10210 allows these issues to be decided by the State agency hearing officer.

Professional athletes.—H.R. 10210 prohibits the payment of benefits to a professional athlete during periods between two successive sports seasons if the athlete had been professionally participating in such sports during the previous season and there is reasonable assurance that he will participate in such sports during the following season. The provision is intended to deny benefit to professional athletes in the off season.

Illegal aliens.—H.R. 10210 prohibits payment of benefits to an alien unless he has been lawfully admitted to the United States for permanent residence. Any data or evidence of citizenship or permanent residence will have to be uniformly required of all applicants for unemployment compensation. A determination of whether an individual is an illegal alien must be based on a preponderance of evidence.

Disqualification for receipt of pension.—Under H.R. 10210 the States will be required, after September 30, 1979, to reduce unemployment compensation benefits by the amount of any public or private pension (including social security retirement benefits and railroad retirement annuities) based on the claimant's previous employment.

E. NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Description and purpose of the Commission.—H.R. 10210 establishes a National Commission on Unemployment Compensation for the purpose of undertaking a comprehensive examination of the present unemployment compensation system and developing appropriate recommendations for further changes. The Commission is to be comprised of three members appointed by the President Pro Tempore of the Senate, three members by the Speaker of the House of Representatives, and seven by the President. Selection of members of the Commission will be aimed at assuring balanced representation of interested groups including at least one representative of labor, industry, the Federal Government, State government, local government and small business.

The Commission will be authorized to appoint such staff as it requires and to contract for necessary consultant services. The final report of the Commission has to be sent to the President and to Congress by January 1, 1979, and the Commission terminates 90 days after the report is submitted. An interim report will be required by March 31, 1978.

Agenda items for the Commission.—H.R. 10210 specifies that the Commission's study shall include, without being limited to, the following items:

(1) Examination of the adequacy, and economic and administrative impacts, of the changes made by H.R. 10210 in coverage, benefit provisions, and financing;

(2) Identification of appropriate purposes, objectives, and future directions for unemployment compensation programs, including railroad unemployment insurance;

(3) Examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) Examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) Examination of (A) the problems of claimant fraud and abuse in the unemployment compensation programs; (B) the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse; and (C) problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems;

(6) Examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(7) Examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

(8) Conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to formulate appropriate

recommendations, and to obtain relevant information, attitudes, opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

(9) Review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

(10) Identification of any weaknesses in such method and any problem which results from the operation of such method;

(11) Formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics; and

(12) Examination of the feasibility and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance programs.

In addition, the conference report on H.R. 10210 directs the commission to include in its studies an examination of the payment of unemployment compensation to retirees and the denial of compensation to employees of educational institutions between terms.

F. OTHER PROVISIONS

Extension of SUA program.—H.R. 10210 extends the Special Unemployment Assistance (SUA) program through December 1977 (claims filed by then could continue in payment status through June 30, 1978). It also modifies the program so that SUA benefits would be based on the same period of work used for regular unemployment compensation. Nonprofessional employees of schools would not be eligible for SUA payments during vacation periods when they have reasonable assurance of employment for the postvacation school term.

Unemployment compensation and AFDC-UF.—H.R. 10210 requires unemployed fathers who apply for aid to families with dependent children-unemployed fathers (AFDC-UF) to collect any unemployment compensation to which they are entitled before they can receive any AFDC-UF benefits for which they might qualify. In those cases where an individual collecting unemployment compensation meets the State AFDC-UF eligibility requirements, the State is required to supplement unemployment compensation benefits up to AFDC-UF benefit levels otherwise payable. The bill also provides, in connection with the requirements for registering for employment under the Work Incentive program and the unemployment compensation program, that the Secretaries of Labor and of Health, Education, and Welfare are to enter into agreements with each State which is willing and able to do so. These agreements will provide for the simplification of the procedures involved in such registration and, where possible, for a single registration to satisfy the requirements of both programs.

Information furnished to AFDC and child support agencies.—State employment offices will be required to furnish specified information to welfare agencies for the purpose of administering the AFDC or child support programs. The State employment service will be reimbursed by the welfare or child support agencies for the cost of supplying this information.

II. Supplemental Security Income Provisions

Services for disabled children.—H.R. 10210 requires the Social Security Administration to refer blind and disabled children under age 16 who are receiving SSI benefits to the crippled children's or other appropriate State agency. This agency will be responsible for administering a State plan which must include provision for counseling of disabled children and their families; the establishment of individual service plans for children under 16; monitoring to assure adherence to the plans; and provision of services to children under age 7, and to children who have never been in school and require preparation to take advantage of public educational services.

A total of \$30 million is made available for the operation of State plans for each of three fiscal years, beginning with fiscal year 1977; there are no non-Federal matching requirements. The amount will be allocated to the States on the basis of the number of children age 6 and under in each State. Up to 10 percent of the State's funds may be used for counseling, referral and monitoring provided under the State plan for children up to age 16. The remainder of the funding is available for services to disabled children under age 7 and those who have never been in school. The bill requires that the funds authorized under the provision may not be used to replace State and local funds now being used for these purposes. The funds may be used in the case of any program or service only to pay that portion of the cost which is related to the additional requirements of serving disabled children over and above what would be required to serve nondisabled children.

Criteria for determining child disability.—H.R. 10210 requires the Secretary of HEW to publish criteria to be used in determining disability for children under age 18 within 120 days after enactment of the provision.

Institutionalization of a spouse.—H.R. 10210 provides that if a spouse is institutionalized the two persons involved will be treated as individuals rather than as a couple for purposes of applying their separate incomes in computing the SSI benefit amount.

Protection of medicaid eligibility.—H.R. 10210 provides that no recipient of SSI will lose eligibility for medicaid solely as the result of the operation of the cost-of-living benefit increase provision under title II of the Social Security Act. It protects the individual only against the loss of medicaid, and is effective only in the case of future social security benefit increases.

Change in SSI savings clause.—Under H.R. 10210, payments to States under the 1972 savings clause provision will not be reduced to reflect Federal SSI benefit increases in 1977 and 1978. This will enable the three "hold harmless" States (Hawaii, Massachusetts, and Wisconsin) to pass through the Federal increases in those years without added State costs. No other States are affected.

SSI payment to persons in institutions.—H.R. 10210 excludes publicly operated community residences which serve no more than 16

residents from being deemed public institutions in which individuals are ineligible for SSI benefits. It also provides that Federal SSI payments may not be reduced in the case of assistance based on need which is provided by States and localities. It repeals section 1616(e) of the Social Security Act which provides that Federal SSI payments be reduced in the case of payments made by States or localities for medical or any other type of remedial care provided by an institution. It adds a requirement, effective October 1, 1977, that each State establish or designate State or local authorities to establish, maintain and insure the enforcement of standards for categories of institutions in which a significant number of SSI recipients are residing. The standards have to be appropriate to the needs of the recipients and the character of the facilities involved. They are to govern admission policies, safety, sanitation and protection of civil rights. H.R. 10210 also requires each State to make available for public review, as a part of its social services program planning procedures under title XX, a summary of the standards and the procedures available in the State to insure their enforcement. There must be made available a list of any waivers of standards which have been made and any violations of standards which have come to the attention of the enforcement authority. Federal payments are to be reduced dollar for dollar by the amount of any State supplementation in the case of persons who are in group facilities which are not approved under State standards as determined by the appropriate State or local authorities.



UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

SEPTEMBER 20, 1976.—Ordered to be printed

Mr. LONG, from the Committee on Finance,
submitted the following

R E P O R T

[To accompany H.R. 10210]

The Committee on Finance, to which was referred the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

The bill as passed by the House of Representatives would require States to extend unemployment compensation protection to certain categories of individuals now covered only at State option and increase the Federal unemployment tax rate and increase the annual amount of wages subject to Federal and State unemployment taxes from \$4,200 to \$6,000 per employee. The bill would also modify the requirements for triggering the Federal-State extended benefit program into and out of operation in the States, establish a national study commission on unemployment compensation, and make a number of other changes. The committee amendments make significant revisions in the House-passed bill and add several provisions which would affect the Supplemental Security Income (SSI) program for needy aged, blind, and disabled people.

A. COVERAGE

Employees of State and local governments.—Like the House bill, the committee bill would require the States to provide unemployment compensation coverage to all employees of State and local governments.

The committee bill would make clarifying changes in the exceptions to coverage provided by the House passed bill. States would not be required to provide coverage for:

- (1) Elected officials;
- (2) Major non-tenured policymaking or advisory positions;
- (3) Policymaking and advisory positions requiring not more than one day's employment per week;
- (4) Judges;
- (5) Members of a legislative body;
- (6) Members of the State National Guard or Air National Guard;
- (7) Emergency employees hired in case of disaster; and
- (8) Inmates of custodial or penal institutions.

Under the House bill, State unemployment compensation laws would be required to contain a provision prohibiting the payment of benefits to teachers and other professional employees of schools during vacation periods who have contracts for employment in the post-vacation term, and until 1980 each State would be allowed to provide a similar prohibition for nonprofessional employees of schools who have reasonable assurance of employment in the post-vacation term.

The committee bill would modify these provisions so that vacation time unemployment benefits would not be paid to teachers and other professional employees who have reasonable assurance of post-vacation employment even though they do not have a formal contract. In addition, the provision permitting States to prohibit vacation time unemployment benefit payments to nonprofessional school employees would be made permanent rather than be limited to a two-year period.

Each State would determine for itself how to finance the benefits which would be payable; an employing agency could be required to make periodic payments similar to the taxes paid by private employers or it could pay the actual cost of the benefits paid to its former employees. The Federal unemployment tax, though, would not be levied.

The States would not be required to provide unemployment compensation for employment prior to January 1978. However, if a State should provide the new benefits on the basis of earlier service, the cost of the resulting benefits (after January 1, 1978), would be paid with Federal funds from general revenues.

The Department of Labor estimates that \$0.2 billion per year in additional unemployment compensation would be paid in fiscal 1978 and 1979 under this provision.

Employees of nonprofit elementary and secondary schools.—The bill would require the States to extend the coverage of their unemployment compensation programs to employees of nonprofit elementary and secondary schools (present law requires coverage for employees of institutions of higher education). The provisions for nonpayment of benefits during vacation periods to school employees of State and local governments would also apply to employees of nonprofit schools.

The States would not be required to provide the new coverage until January 1, 1978.

Virgin Islands.—The bill would extend the Federal unemployment compensation laws to the Virgin Islands as soon as various requirements of membership in the Federal-State system could be met.

B. FINANCING PROVISIONS

Tax base.—The bill would increase the Federal unemployment taxable wage base to \$6,000. This change would require, in effect, that the States tax for unemployment compensation purposes the first \$6,000 (rather than \$4,200) in wages paid by an employer to an employee. The provision would be effective January 1, 1978.

The Department of Labor estimates that enactment of this provision would result in \$2 billion of additional State taxes and \$0.5 billion of additional Federal taxes (a total of \$2.5 billion) for fiscal 1979.

Tax rate.—The net Federal unemployment compensation tax would be increased from 0.5 percent to 0.7 percent starting January 1, 1977, and, under the House-passed bill, ending with the earlier of (1) December 31, 1982, or (2) the end of the year in which all of the general revenue advances to the extended unemployment compensation account have been repaid. The committee bill would modify this provision so that the additional Federal tax would continue to apply until all of the advances have been repaid. The Committee estimates that this provision will result in \$0.4 billion in additional revenues for fiscal year 1977.

Advances to States.—Under present law, whenever a State finds that it will not have funds available to pay unemployment compensation for any 1 month it may borrow the necessary funds from the Federal Unemployment Trust Fund. Each request for a loan can be for 1 month only. The bill would permit a single loan request to cover a 3-month period.

The change would be effective on enactment.

C. OTHER PROVISIONS RELATING TO UNEMPLOYMENT COMPENSATION

Triggers.—The bill would modify the triggers which determine when extended unemployment compensation benefits are payable in a State.

Under the House bill, the new triggers would be:

A seasonally adjusted national insured unemployment rate of 4.5 percent based on the most recent 13-week period (rather than 3 consecutive months); or

A seasonally adjusted (rather than unadjusted) State insured unemployment rate of 4 percent for the most recent 13-week period.

The provision of present law requiring that the State insured unemployment rate also be 120 percent of the rate for the corresponding period in the 2 preceding years would be eliminated on a permanent basis. This requirement has been suspended throughout most of the period since enactment of the extended benefits program.

The committee bill retains the modification of the national trigger but does not adopt the House-passed State trigger. The committee bill would keep the provisions of present law which put the extended benefits program into effect in a State when the State's insured unemployment rate (not seasonally adjusted) averages at least 4 percent for a 13-week period and is 120 percent of the rate for the corresponding periods in the preceding 2 years. Individual States, however, could opt to put the program into effect whenever the insured unemployment rate in the State averages at least 6 percent for a 13-week period even

though the rate is not 120 percent of the rate for the corresponding periods in the preceding 2 years.

Disqualification for receipt of a pension.—The committee bill adds to the House bill a new provision under which States would be required to prohibit the payment of unemployment compensation benefits to individuals who receive any public or private pension or annuity (including social security retirement benefits and railroad retirement annuities). The new provision would be effective for years after 1977.

Disqualification for pregnancy.—The bill would prevent the States from disqualifying a women for unemployment compensation solely because she is, or recently has been, pregnant.

The new provision would be effective for years after 1977.

Professional athletes and illegal aliens.—The bill would require the States to include in their unemployment compensation laws a provision specifically precluding the payment of unemployment compensation:

(1) To a professional athlete between two playing seasons if he has reasonable assurance of reemployment in the following season; and

(2) To an alien who was not lawfully admitted to the United States.

The new requirements would be effective for years after 1977.

Commission on unemployment compensation.—The bill would establish a commission to study the unemployment compensation program and to issue a report not later than January 1, 1979. The members of the Commission would be appointed by the President (7 members, including the chairman), the President *pro tempore* of the Senate (3 Members) and the Speaker of the House of Representatives (3 Members).

The bill would authorize appropriations from general revenues to meet the cost of the Commission.

D. PROVISIONS RELATING TO SUPPLEMENTAL SECURITY INCOME

Disabled children.—Although the Supplemental Security Income program has been in effect since January 1, 1974, the Department of Health, Education, and Welfare has not yet issued detailed guidelines for determining who is disabled under the disability definition provided in the law as it applies to children. The committee bill would require the Secretary of HEW to issue guidelines within 120 days after the enactment of the provision.

The bill also would require the Social Security Administration to refer blind and disabled children under age 16 who are receiving SSI benefits to the crippled children's or other appropriate State agency. This agency would be responsible for administering a State plan which would have to include provision for counseling of disabled children and their families; the establishment of individual service plans for children under 16; monitoring to assure adherence to the plans; and provision of services to children under age 7, and to children who have never been in school and require preparation to take advantage of public educational services.

A total of \$30 million would be provided for the operation of State plans for each of three fiscal years, beginning with fiscal year 1977; there would be no non-Federal matching requirements. The amount

would be allocated to the States on the basis of the number of children age 6 and under in each State. Up to 10 percent of the State's funds could be used for counseling, referral and monitoring provided under the State plan for children up to age 16. The remainder of the funding would be available for services to disabled children under age 7 and those who have never been in school. The bill would require that the funds authorized under the provision could not be used to replace State and local funds now being used for these purposes. The funds could be used in the case of any program or service only to pay that portion of the cost which is related to the additional requirements of serving disabled children over and above what would be required to serve nondisabled children.

Change in SSI savings clause.—The Supplemental Security Income (SSI) program provides Federal income maintenance benefits to needy aged, blind, and disabled persons. These benefits in many States are augmented by State-funded supplemental payments. When Federal benefits increase, States can continue to provide the same level of State supplementation at no increase in State costs thus passing through the net impact of the Federal benefit increase to the recipient. Three States, however, do incur a State cost if they elect to pass through the Federal increase in this way because part of the Federal increase automatically results in a reduction in payments to these States under a 1972 savings clause provision. This provision now affects only Hawaii, Massachusetts, and Wisconsin. The committee bill contains a provision under which payments under that savings clause to those States will no longer be reduced when Federal SSI benefits rise. This will enable those States to pass through the Federal increases without added State costs.

Institutionalization of a spouse.—The committee bill would amend present law to provide that if a spouse is institutionalized, the two persons involved would be treated as individuals rather than as a couple for purposes of applying their separate incomes in computing any required reduction of the SSI benefit amount.

Protection of medicaid eligibility.—Under present law, there are some cases in which a cost-of-living increase in social security benefits may result in the loss of SSI eligibility. Although the amount of SSI cash benefits in such cases is very small, the denial of medicaid benefits represents a serious loss to the individual affected. The committee bill would provide that no recipient of SSI would lose eligibility for medicaid as the result of the operation of the cost-of-living benefit increase provision under title II of the Social Security Act. The committee provision would protect the individual only against the loss of medicaid, and would be effective only in the case of future social security benefit increases.

SSI payment to persons in institutions.—The committee bill would exclude publicly operated community residences, which serve no more than 16 residents, from being deemed public institutions in which individuals are ineligible for Supplemental Security Income benefits. The provision would also provide that State or local government subsidies to a home, public or private, would not result in SSI benefits being reduced, and would require States to establish, maintain, and insure the enforcement of standards for any category of institutions,

foster homes, or group living arrangements in which a significant number of SSI recipients reside.

Social Security Act assistance programs in the Northern Marianas Commonwealth.—The recently approved covenant establishing a Commonwealth of the Northern Marianas Islands contained general provisions making Federal assistance programs applicable there in the same way that they apply to other territories. However, the covenant also specifically extended to that jurisdiction two programs under the Social Security Act which Congress has, up to the present, found appropriate to limit in applicability to the 50 States and the District of Columbia: Supplemental Security Income (SSI), and special social security benefits for the uninsured. The committee bill specifically extends to the new Northern Marianas Commonwealth the Social Security Act programs of aid to the aged, blind, and disabled, aid to families with dependent children, and medical assistance under the same conditions as these programs apply to Guam, Puerto Rico, and the Virgin Islands. The bill also deletes the authorization to extend the SSI program and the program of special social security benefits for the uninsured to the Northern Marianas.

E. PROVISIONS OF THE HOUSE BILL DELETED BY THE COMMITTEE

Farm workers.—The House bill would have required the States to extend the coverage of their unemployment compensation programs to include agricultural work performed for an employer who has four or more employees in each of 20 weeks in a year or who pays wages of at least \$10,000 in any calendar quarter. The committee bill does not contain any provision extending unemployment compensation to agricultural employment.

Household workers.—The House bill would have required the States to extend the coverage of their unemployment compensation programs to domestic workers employed by households that pay wages of at least \$600 in any calendar quarter. The Committee bill does not include this provision.

Under present law, the coverage of domestic service in private households under the unemployment compensation program depends on the provisions of State law. The committee notes that only three States and the District of Columbia provide coverage. In the District and in New York, domestic workers are covered if the employer's quarterly payroll is \$500 or more; coverage in Hawaii comes when the quarterly payroll is at least \$225; and in Arkansas, employers of three or more or having a quarterly payroll of \$500 are covered.

Federal reimbursements to the States.—The House-passed bill would have made changes in the way Federal reimbursement of certain State costs are determined. In determining the amount of reimbursable administrative costs, no longer would account be taken of amounts attributable to administering the program as it relates to employees of State and local governments.

In determining grants to States for the payment of benefits under the extended benefits program, amounts would not be included to compensate for the payment of benefits to employees of State and local governments. (Under the extended benefits program, benefits are paid for the 27th through the 39th week of unemployment; one-

half of the cost of these benefits is paid from Federal unemployment insurance funds.)

The committee bill deletes the House-passed provisions which would reduce the payments made to the States for these purposes.

CETA employees.—The House bill would have authorized reimbursement from Federal general revenues to the State for the cost of paying unemployment compensation to former participants in public service jobs under the Comprehensive Employment and Training Act (CETA). Under present law these costs are met either from direct State funds or from the Federal CETA grant.

The committee bill deletes the provision.

Finality provision.—Under the House bill a Federal employee would be permitted to use the State agency appeal process to overturn his Federal agency's determination as to earnings and reason for leaving Federal employment. Hearings on these issues are now available to employees within the Federal agency involved.

The Committee bill does not include this provision.

II. GENERAL EXPLANATION OF THE BILL

A. UNEMPLOYMENT COMPENSATION

COVERAGE PROVISIONS

The committee bill would bring under the Federal-State unemployment compensation system the greater part of those jobs which are now exempt from the Federal unemployment tax and are consequently not now covered under State programs except to the extent that States have voluntarily elected to provide such coverage. Under the bill, employment for State and local governments and employment for nonprofit elementary and secondary schools would remain exempt from the Federal unemployment tax, but States would be required to provide coverage under State law for such jobs.

If a State did not comply with this requirement, private employers in the States would lose the tax credit they now enjoy by reason of participating in an approved State unemployment compensation program. (The credit would be equal to 2.7 percent out of the total Federal unemployment tax of 3.4 percent provided under the bill.) States would also lose Federal funding for the costs of administering their unemployment programs

STATE AND LOCAL GOVERNMENT EMPLOYEES

(Sec. 101 of the Bill)

Under present Federal laws, the States are required to provide unemployment insurance for employees of State operated hospitals and institutions of higher education. In addition, more than one-half of the States have gone beyond the Federal requirements and provide mandatory coverage for State employees and permit local governments to opt for coverage. Nine States, Connecticut, Florida, Hawaii, Iowa, Michigan, Minnesota, Montana, Ohio, and Oregon require coverage of both State and local government employment. The committee bill would require coverage of all State and local employees.

UNEMPLOYMENT COMPENSATION COVERAGE UNDER PRESENT LAW AND THE COMMITTEE BILL ¹

	Employment— Numbers (in thousands)
Covered under present law.....	72,385
Under State programs.....	66,700
Federal employees/military.....	5,093
Railroad.....	592
Added to coverage under H.R. 10210.....	7,946
State government.....	600
Local government.....	7,100
Nonprofit organizations.....	242
Virgin Islands.....	4

¹ Based on most recent data (1974) modified to reflect some modification of coverage since that time.

Provisions of committee bill.—Under the committee bill State and local government employment would continue to be exempt from the Federal unemployment payroll tax. States would, however, be required to provide State coverage for such employment as a condition of continued participation in the Federal-State unemployment compensation program. (Failure to participate would, in effect, raise the Federal unemployment tax on employers in the State from 0.7 to 3.4 percent and would deprive the State of Federal funds to meet administrative expenses and part of the benefit costs for benefits paid after the 26th week of unemployment.)

All State and local government employees would have to be covered except elected officials, major non-tenured policy-making and advisory employees, policy-making and advisory employees who do not work on more than one day each week, judges, members of the legislature, members of the National Guard, prisoners, and persons hired for temporary jobs in emergency situations. With the above exceptions, all employment after December 31, 1977 would be covered. Under the bill, the State law could permit the employing entity to pay for its coverage either through contributions equivalent to the State payroll tax or by reimbursing the fund for benefits paid to its former employees.

Constitutionality.—Generally, mandatory Federal coverage under the Federal-State unemployment compensation program exists by virtue of applying the Federal unemployment payroll tax to the employment in question. It then becomes of no advantage not to cover that employment under the State program since failure to do so would eliminate the 2.7-percent Federal tax credit which would otherwise apply. In the case of State and local government employment, however, such a procedure would raise questions of the power of the Federal Government under the Constitution to lay a tax upon a vital State function. Consequently, the bill would continue to exempt State and local employment from the Federal tax but would require coverage for such employment as a condition of approving the State program. This

type of mandatory Federal coverage was applied in the 1970 amendments to require States to provide unemployment compensation protection to employees of State hospitals and State institutions of higher education.

A recent Supreme Court decision (*National League of Cities v. Usery*) invalidated provisions of the 1974 Fair Labor Standards Amendments which had extended minimum wage coverage to State and local government employees. The Solicitor of the Department of Labor has issued an opinion holding that that decision is not applicable to the H.R. 10210 provisions extending unemployment compensation coverage to such employees.

Coverage of school employees during vacation periods.—Under present law, States are required to provide coverage for employees of State institutions of higher education with benefits payable under the same conditions as apply to other individuals covered under the program except that no benefits are payable during a summer vacation (or similar period between terms) to persons in academic or principal administrative positions who have contracts for the following term (whether or not at the same institution). The House bill, which extends coverage to all State and local employees, would make this provision applicable to such employees regardless of type of school. In addition, the House bill permits States to deny benefits to nonprofessional employees during vacation periods if they have reasonable assurance of continuing in that employment in the following term. Starting in 1980, however, this option would expire and State and local governments would have to provide benefits during the vacation period to nonprofessional employees who cannot find employment during that time.

The committee bill would modify these provisions so that a teacher or professional employee could not qualify for unemployment compensation during vacation periods when there is a reasonable assurance that a job will be available for the post-vacation term (even if a formal contract has not been signed). In making this change, the committee intends that the determining factor be the availability of a job to the individual—whether or not the individual wishes to accept the job. If a job is available to the individual and he does not want to accept it, he would be disqualified just as any other individual who refuses employment is disqualified.

The provision of the House bill which permits the States to deny benefits during vacation periods to nonprofessional school employees for a 2-year period would under the committee bill be a permanent option for the States.

NONPROFIT ORGANIZATIONS

(Sec. 101 of the Bill)

Elementary and secondary schools.—Prior to the 1970 amendments, nonprofit organizations, which are exempt from taxation under the Internal Revenue Code, were covered as employers for unemployment compensation purposes only at the option of the States. The 1970 amendments required States to provide coverage for nonprofit employers who have at least four employees in at least 20 weeks of the year. However, an exception in the law allows States to exclude from

coverage nonprofit elementary and secondary schools. The committee bill would repeal this exclusion, thus requiring coverage for such schools on the same basis as it is required for other nonprofit entities.

Special provision for certain nonprofit employers.—When the 1970 amendments required the extension of coverage to nonprofit employers, a provision was also added allowing such organizations to pay for their coverage by reimbursing the State unemployment fund for any benefits paid to their former employees (on the basis of such employment). If they chose this option, they would not be required to pay the State unemployment taxes otherwise applicable. The 1970 amendments also permitted any nonprofit entity which had been covered prior to those amendments to switch to this reimbursement method of paying for its coverage and to take credit for any past State unemployment taxes it had paid in excess of what it would have paid under the reimbursement method. This opportunity was available, however, only if permitted by State law and only if the nonprofit employer made an election to change to the reimbursement method at the first opportunity.

The Hoag Memorial Hospital in California had elected and later terminated unemployment compensation coverage for its employees prior to the 1970 amendments which made such coverage mandatory as of January 1972. However, since the hospital did not have unemployment coverage in effect during the period between the enactment of the 1970 amendments and January 1972 when coverage became mandatory, its election of the reimbursement method did not take place at the earliest time possible under State law, namely in 1971. As a result, the hospital was barred from claiming the credit which would otherwise have been allowed for the excess of its past contributions over the benefit payments made to its former employees. A provision in H.R. 10210 would allow that institution (and any other nonprofit organization which may be in similar circumstances) to claim the retroactive credit provided that it elected the reimbursement method by April 1, 1972.

A provision similar to that adopted in 1970 allowing nonprofit employers to take credit for past excess contributions is included in H.R. 10210 for the nonprofit schools for which coverage is mandated by the bill.

TRANSITIONAL FEDERAL FUNDING PROVISIONS

(Sec. 121 of the Bill)

Costs of State and local coverage.—The provisions of the bill which would extend coverage under the unemployment compensation program to some 588,000 State employees who are not now covered and to about 7.7 million employees of local governments. State programs would be required to pay benefits on the basis of employment taking place after December 31, 1977. If States elect to pay benefits on the basis of this previously uncovered employment prior to that date, the costs of any such benefits payable after January 1, 1978, would be reimbursed from Federal general revenues. (Federal reimbursement would also be made for benefits paid prior to July 1, 1978, on the basis of State or local employment during the first 6 months of 1978.) Because some of this earlier coverage could also include employment

which would qualify for payments under the federally funded Special Unemployment Assistance (SUA) program, the committee adopted an amendment to make clear that Federal reimbursement for regular unemployment benefits based on such employment will be available only to the extent that Federal SUA benefits were not paid on the basis of the same employment. The table below indicates the benefits which would be paid as a result of the State and local coverage provisions of H.R. 10210.

**ESTIMATED UNEMPLOYMENT BENEFIT PAYMENTS BASED ON
STATE AND LOCAL GOVERNMENT EMPLOYMENT COVERED
BY H.R. 10210**

[In millions]

Fiscal year	Total unem- ployment benefit payments ¹	Amount reimbursable from Federal general funds ²
1978.....	\$200	\$190
1979.....	210	50
1980.....	230	0
1981.....	260	0

¹ Includes regular and extended benefits.

² Under special provision where States provide benefits on the basis of employment prior to July 1, 1978.

Costs of coverage for non-profit schools.—The Department of Labor estimates that the bill's provisions requiring coverage for employees of non-profit elementary and secondary schools will result in additional benefit payments of \$10 million in each of the fiscal years 1978–1981. In fiscal year 1978, \$8 million of this total would be paid for from Federal general revenues under the bill's special start-up provisions.

**INCLUSION OF VIRGIN ISLANDS IN THE FEDERAL-STATE UNEMPLOYMENT
INSURANCE SYSTEM**

(Sec. 102 of the Bill)

Under existing Federal law, the Virgin Islands is excluded from the Federal-State system of unemployment insurance. The Virgin Islands has for several years had a similar unemployment insurance program, however, and the territorial government has formally requested that the Virgin Islands be included in the Federal-State system.

The inclusion of the Virgin Islands in the Federal-State unemployment system as proposed in the bill would extend to that jurisdiction the Federal unemployment tax and thus increase slightly the revenues to the Federal accounts in the unemployment trust fund. At the same

time, it would provide new or modified funding for the Virgin Islands programs as shown in the table below.

FUNDING CHANGES FOR VIRGIN ISLANDS UNEMPLOYMENT PROGRAM UNDER THE COMMITTEE BILL

Expenditure type	Current funding	Funding under H.R. 10210
Regular benefits.....	Territorial tax.....	Territorial tax.
Administrative costs:		
Compensation system.do.....	Federal trust fund accounts.
Employment service.	Federal general funds.	Federal trust fund accounts and general funds.
Extended benefits.....	Not in effect.....	50 percent territorial tax, 50 percent Federal trust fund accounts.
Loans.....	Federal general funds.	Federal trust fund accounts.

Loans to the Virgin Islands.—Under the Federal-State unemployment compensation system, States which exhaust their own benefit funds may borrow from the Federal accounts in the trust fund to meet their benefit obligations. The Virgin Islands is unable to use this procedure since it is not now a part of the Federal-State system. In Public Law 94-45, authority was provided for loans to be made to the Virgin Islands for this purpose. Under that legislation and subsequent amendments, the Virgin Islands is authorized to borrow up to \$15 million which must be repaid by January 1, 1979. The law authorizing these loans also provides that the repayment requirements of the Federal-State unemployment compensation program will come into operation if the Virgin Islands is incorporated into that system as proposed in the committee bill. As of July 1976, the Virgin Islands system has borrowed \$5.6 million under the authority of Public Law 94-45.

B. FINANCING PROVISIONS

INCREASES IN THE UNEMPLOYMENT TAXES

(Sec. 201 of the Bill)

Financing basis.—The Federal statute now imposes a gross tax of 3.2 percent of covered wages. The tax base or maximum amount of annual wages per employee subject to this tax is \$4,200. (In 1974, the average annual wage in covered employment was about \$9,200.) Although the gross Federal tax rate is 3.2 percent, the actual net Federal tax rate is 0.5 percent since employers qualify for a 2.7-percent

tax credit by reason of their participation in an approved State program. Thus, the Federal tax in all States amounts to 0.5 percent of the first \$4,200 of wages. The proceeds from this Federal tax are used to meet the costs of administering the unemployment compensation program—including both Federal and State costs—most of the cost of administering public employment services, half of the cost of benefit payments under the extended benefit program (for workers exhausting their regular benefits), and all of the cost of the temporary emergency benefit program (for workers exhausting both regular and extended benefits).

The cost of regular State benefits and half the cost of extended benefits are met from the proceeds of State unemployment taxes. The tax base to which State taxes apply is effectively required to be at least as high as the Federal base of \$4,200, but 22 States now have bases which exceed that level. The tax rate applied in each State may vary from year to year according to conditions and may vary among different employers according to experience rating factors which are designed to allow employers a lower tax if their employees do not experience much unemployment. Because of the heavy use of unemployment benefits during the recent recessionary period, the average State tax rate has increased from 1.9 percent in 1974 to an estimated 2.5 percent in 1976. Among the States, the estimated average tax rate applied to taxable wages varies from 0.6 percent in Texas to 4.1 percent in Massachusetts.

The need for additional financing.—If the State tax revenues prove insufficient to meet benefit obligations in times of high unemployment, States are permitted to borrow the necessary funds from the Federal accounts in the trust fund. If the Federal accounts have insufficient funds to meet State borrowing requests and to cover the Federal responsibility for paying half the cost of extended benefits and all the costs of emergency benefits, authority is available for repayable advances from the general funds of the Treasury into the Federal accounts of the trust fund. Because of the heavy demands on the unemployment compensation system made by the high levels of unemployment in the past few years and by the enactment of temporary legislation providing benefits of up to 65 weeks duration, the unemployment payroll taxes—both Federal and State—have proven unable to meet expenses. As of the beginning of fiscal year 1977, advances from the general fund will amount to about \$10.9 billion which is estimated to increase to \$14.5 billion by the end of fiscal year 1978. Advances have been made to 21 States and total \$3.1 billion.

Provisions of the committee bill.—The committee bill would increase the gross Federal unemployment tax rate from 3.2 percent to 3.4 percent while leaving the tax credit at 2.7 percent. This raises the net Federal tax by 0.2 percent, that is, from the present level of 0.5 to a new level of 0.7 percent. Under the House bill, this increased tax rate would take effect in January 1977 and would continue in effect through 1982 after which the existing 0.5 percent net tax rate would again become applicable. The House bill also provides that the tax rate will revert to 0.5 percent at an earlier date if the advances from the general fund have been repaid.

ADVANCES TO STATES FROM FEDERAL UNEMPLOYMENT ACCOUNT

[In millions of dollars per calendar year]

States	1976 through Aug. 15, 1976				Total
	1972	1973	1974	1975	
Connecticut.....	31.8	21.7	8.5	190.2	343.2
Washington.....		40.7	3.4	50.0	149.4
Vermont.....			5.3	23.0	34.8
New Jersey.....				352.2	497.2
Rhode Island.....				45.8	65.8
Massachusetts.....				140.0	265.0
Michigan.....				326.0	571.0
Puerto Rico.....				35.0	47.0
Minnesota.....				47.0	123.0
Maine.....				2.4	14.9

Pennsylvania.....	173.8	255.8	429.6
Delaware.....	6.5	7.0	13.5
District of Columbia.....	7.0	22.6	29.6
Alabama.....	10.0	20.0	30.0
Illinois.....	68.8	307.0	375.8
Arkansas.....			
Hawaii.....		20.0	20.0
Nevada.....		22.5	22.5
Oregon.....		7.6	7.6
Maryland.....		18.5	18.5
Montana.....		36.1	36.1
		1.4	1.4
Total.....	31.8	62.4	17.2
		1,477.7	1,506.8
			3,095.9

1 Actual loans received.....	\$203.0
Less repayment through reduced employer credits.....	(12.8)
Total.....	190.2

Information furnished to the committee by the Department of Labor indicates that the additional income resulting from the higher tax rate will not be sufficient to pay back even a major part of the advances by 1982. In the 5-year period for which the increased tax rate would be in effect under the House bill, the deficit would be reduced from the present \$7.7 billion to about \$5 billion. The committee bill would keep the higher Federal tax rate in effect after 1982 until the entire deficit has been repaid.

The increase in the net Federal tax rate will affect only the amounts collected by the Federal trust fund accounts. The committee bill also increases the amount of annual earnings subject to taxation from \$4,200 to \$6,000. This increase is effective January 1978 and would affect both Federal and State taxes. Since States have the ability to adjust their tax rates within the overall base, the exact impact of the increase on State revenues is difficult to estimate. The following table, however, presents the estimated effect on both State and Federal unemployment revenues under the provisions in the House bill.

IMPACT OF TAX PROVISIONS

[In billions of dollars]

Fiscal year	Increased revenue under H.R. 10210		
	Federal		State
	From ' higher tax rate ¹	From "higher wage base ¹	
1977.....	² 0.3		
1978.....	.5	0.2	0.4
1979.....	.8	.5	1.6
1980.....	.8	.5	2.6
1981.....	.8	.5	2.8

¹ Revenues shown as attributable to tax rate increase are those which would result if there were no increase in the wage base. Revenues attributable to the wage base increase would be somewhat smaller if there were no concurrent increase in the tax rate.

² In action on the Second Concurrent Resolution on the Budget for 1977, the Congress assumed that revenues would be increased by \$0.4 billion as a result of this provision. The difference in the Labor Department estimate is attributable to differences in economic assumptions. The committee accepts the \$0.4 billion estimate underlying the Budget Resolution.

Source: Department of Labor.

TIMING OF LOANS TO STATES

(Sec. 202 of the Bill)

When States find it necessary to borrow from the Federal accounts in the trust funds to meet their unemployment benefit obligations, present law requires that the funds borrowed for any month be applied for in the preceding month. The House bill would permit States

to apply for loans covering a 3-month period. The committee bill would modify this provision to make clear that, while applications may be for a 3-month period, payments to the States will continue to be made as needed each month.

C. EXTENDED BENEFIT TRIGGERS

(Sec. 301 of the Bill)

The Federal-State Extended Unemployment Compensation Act of 1970 provides for the payment of additional weeks of benefits to individuals who exhaust their benefit entitlement under the regular State programs. The additional entitlement is in the same weekly amount as the regular entitlement and continues for half as long as the regular entitlement. Thus, an individual entitled to the maximum duration of 26 weeks of regular benefits could receive up to 13 additional weeks of extended benefits. Half the funding of the extended benefits comes from State unemployment taxes and half comes from the Federal tax.

Change in national trigger.—Benefits under the extended benefit program are payable only in periods of high unemployment. Permanent law makes the program effective in all States when the national insured unemployment rate on a seasonally adjusted basis reaches 4.5 percent for 3 consecutive months, and the program continues in effect until that rate declines below 4.5 percent for 3 consecutive months. (A temporary provision which expires December 31, 1976, permits States to participate in the extended benefit program as though the national trigger rate were 4 percent rather than 4.5 percent.) The committee bill would modify the permanent law by providing that the program will be in effect in all States when the seasonally adjusted 4.5 percent national insured unemployment rate for a given week and the 12 previous weeks (rather than for 3 consecutive months), averages 4.5 percent or more and will cease to be in effect when that rate for a given week and the 12 prior weeks averages less than 4.5 percent.

The Department of Labor believes that this change from 3 consecutive months to a moving 13 week average would tend to make the program somewhat more responsive to changes in the national economy in that it would trigger on or off more quickly in response to very sharp changes in national insured unemployment rates. It is expected, however, that under either present law or the revised provision in H.R. 10210 the program would remain in effect through at least the end of the 1977 calendar year.

Change in the State trigger.—From December 1971 to November 1974, the national insured unemployment rate was below the permanent law 4.5 percent rate which triggers the extended benefit program into operation in all States. When the national trigger is "off", States participate in the program only if the State trigger requirements are met. Under permanent law, the extended unemployment compensation program becomes effective in a State when two requirements are met. The rate of insured unemployment in the State (not seasonally adjusted) must reach a level of 4 percent or more averaged over a 13-week period and the rate for that 13-week period must be at least 20 percent higher than the average of the State insured unemployment rate in the same 13-week period of the preceding 2 years.

When a State experiences a prolonged period of high unemployment, the "20 percent higher" requirement becomes very difficult to meet even if there is a very high level of unemployment in the State. Thus, for much of the period since the extended unemployment compensation program was enacted in 1970, the second part of the trigger requirement (an insured unemployment rate 20 percent above the rate prevailing in the 2 prior years) has been suspended. The table which follows shows the various temporary provisions of law which have been enacted to suspend this requirement.

TEMPORARY LEGISLATION SUSPENDING 120-PERCENT REQUIREMENT IN STATE EXTENDED TRIGGERS

Date	Law	Action
Oct. 27, 1972.....	Public Law 92-599.	Suspended 120-percent "off" indicator through June 30, 1973.
July 1, 1973.....	Public Law 93-53..	Suspended 120 percent for both "on" and "off" indicators through Dec. 31, 1973, with "tail-off" through Mar. 31, 1974.
Dec. 31, 1973.....	Public Law 93-233.	Suspended 120 percent for both "on" and "off" indicators through Mar. 31, 1974.
Mar. 28, 1974.....	Public Law 93-256.	Extended suspension of 120-percent indicators until July 1, 1974.
June 30, 1974.....	Public Law 93-329.	Extended suspension of 120-percent indicators until Aug. 31, 1974.
Aug. 7, 1974.....	Public Law 93-368.	Extended suspension of 120-percent indicators until Apr. 30, 1975.
Dec. 31, 1974.....	Public Law 93-572.	The Emergency Unemployment Compensation Act of 1974 included a provision permitting States to waive 120-percent indicators until Dec. 31, 1976.
June 30, 1975.....	Public Law 94-45..	Extended waiver provision of the Emergency Unemployment Compensation Act until Mar. 31, 1977.

The House-passed bill would modify the State trigger requirement for extended unemployment benefits by substituting a seasonally adjusted State insured unemployment rate of 4 percent as the trigger factor instead of the unadjusted 4 percent factor now used. The "20 percent higher" requirement would be eliminated permanently under the House bill. The change would become effective as of January 1977; however, it would not have any impact until much later since the national trigger is expected to be "on" at least through the end of 1977.

The information furnished to the committee by the Department of Labor suggests that there is very little difference in the effect of using a 4-percent seasonally adjusted, insured unemployment rate as opposed to using a 4-percent unadjusted rate. In either case extended benefits would in most States be payable for significantly longer periods than would be the case under the existing provision which includes the requirement that the rates be 20 percent higher than the rates for the corresponding periods in the preceding 2 years. The committee recognizes, however, that the provisions of present law have not been adequate when unemployment in a State rises and remains unusually high for several years. The Congress has addressed this problem a number of times on an ad hoc, short-term basis. For a longer range solution, the committee bill would modify present law to allow States an important measure of flexibility when faced with extended periods of high unemployment. Under the modification in the committee bill, a State would be permitted to set aside the "20 percent higher" requirement whenever the State's insured unemployment rate is at least 6 percent (measured over a 13-week period).

The following table shows what the effect of the State extended benefit triggers under present law, the House bill, and the committee bill would have been over the 17-year period 1957 to 1973.

The House bill is estimated to result in \$300 million annually in additional extended benefits beginning in fiscal year 1979. The committee bill is estimated to result in \$150 million per year in additional extended benefits.

D. PROVISIONS RELATED TO BENEFIT ELIGIBILITY

DISQUALIFICATION FOR PREGNANCY

(Sec. 302 of the Bill)

In order to qualify for unemployment compensation benefits, a worker must be able to work, be seeking employment, and be available for employment. In a number of States, an individual whose unemployment is related to pregnancy is barred from receiving any unemployment benefits. In 1975 the Supreme Court found a provision of this type in the Utah unemployment compensation statute to be unconstitutional. The Utah requirement had disqualified workers for a period of 18 weeks (12 weeks before birth through 6 weeks after birth). The Court stated that "a conclusive presumption of incapacity during so long a period before and after childbirth is constitutionally

**AVERAGE NUMBER OF WEEKS STATES WOULD HAVE PAID
EXTENDED BENEFITS EACH YEAR UNDER ALTERNATIVE
STATE TRIGGERS ¹**

State	Current law, 4 percent insured un- employment rate, at least 120 percent of prior 2 years	House bill, 4-percent seasonally adjusted	Committee bill, current law but waive 120 percent if insured unemploy- ment rate is 6 percent or more
Alabama.....	7.1	19.8	9.0
Alaska.....	8.1	48.6	34.5
Arizona.....	5.9	13.5	5.9
Arkansas.....	8.9	27.9	14.2
California.....	12.5	37.4	17.8
Colorado.....	1.8	0	1.8
Connecticut.....	10.5	18.0	10.9
Delaware.....	3.9	4.6	3.9
District of Columbia.....	0	0	0
Florida.....	4.6	6.9	4.6
Georgia.....	4.9	9.8	4.9
Hawaii.....	6.9	8.4	6.9
Idaho.....	8.2	32.1	13.8
Illinois.....	5.9	6.2	5.9
Indiana.....	6.6	7.0	6.6
Iowa.....	3.2	.8	3.2
Kansas.....	4.5	5.4	4.5
Kentucky.....	6.7	24.4	15.9
Louisiana.....	8.9	19.5	10.8
Maine.....	11.9	36.2	20.5
Maryland.....	7.8	17.5	8.6
Massachusetts.....	12.2	33.4	18.0
Michigan.....	11.4	25.5	14.3
Minnesota.....	6.5	15.8	10.7
Mississippi.....	5.5	22.9	10.9
Missouri.....	5.5	11.4	6.2
Montana.....	8.5	34.1	17.6
Nebraska.....	2.3	0	2.3
Nevada.....	11.5	40.3	16.3
New Hampshire.....	5.6	15.5	5.6
New Jersey.....	10.4	36.8	17.7
New Mexico.....	7.1	12.8	7.1
New York.....	8.6	29.7	12.1
North Carolina.....	4.7	14.9	4.7
North Dakota.....	5.9	27.1	16.5

AVERAGE NUMBER OF WEEKS STATES WOULD HAVE PAID
EXTENDED BENEFITS EACH YEAR UNDER ALTERNATIVE
STATE TRIGGERS ¹—Continued

State	Current law, 4 percent insured un- employment rate, at least 120 percent of prior 2 years	House bill, 4-percent seasonally adjusted	Committee bill, current law but waive 120 percent if insured unemploy- ment rate is 6 percent or more
Ohio.....	7.1	10.7	7.1
Oklahoma.....	8.0	18.9	9.3
Oregon.....	10.9	34.9	18.1
Pennsylvania.....	11.0	28.8	18.2
Puerto Rico.....	9.7	39.1	33.8
Rhode Island.....	11.4	35.9	18.1
South Carolina.....	4.1	6.6	4.1
South Dakota.....	3.1	0	5.9
Tennessee.....	6.1	23.1	12.2
Texas.....	1.7	1.1	1.7
Utah.....	3.5	7.9	5.7
Vermont.....	11.5	31.4	16.9
Virginia.....	2.2	.8	2.2
Washington.....	11.9	41.5	26.5
West Virginia.....	7.8	25.4	17.8
Wisconsin.....	6.9	6.9	6.9
Wyoming.....	4.5	11.2	6.8

¹ Determined from Department of Labor simulation study based on 1957-73 data.

invalid." A number of other States have similar provisions although most appear to involve somewhat shorter periods of disqualification.

The committee bill includes, without modification, the provision of the House bill which would prohibit States from continuing to enforce any provision which denies unemployment compensation benefits solely on the basis of pregnancy (or recency of pregnancy). Pregnant individuals would, however, continue to be required to meet generally applicable criteria of availability for work and ability to work.

DISQUALIFICATION FOR RECEIPT OF PENSION

(Sec. 303 of the Bill)

It was brought to the attention of the committee that in a number of States ¹ retired people who are receiving public and private pensions,

¹ As of January 1976, the States were Alaska, Arizona, California, Georgia, Kansas, Kentucky, Nevada, New Jersey, North Carolina, North Dakota, Puerto Rico, Rhode Island, South Carolina, Texas, and Vermont.

railroad retirement annuities, social security retirement benefits, military retirement pay, etc. and who have actually withdrawn from the labor force are being paid unemployment compensation. In other States, various rules are used to disqualify some or all of these people. The committee believes that a uniform rule is required and has added to the bill a new provision requiring each State to prohibit the payment of unemployment compensation to any individual who is entitled or any governmental or private retirement pay, retirement pension to retirement annuity based on previous employment.

Because this provision requires a change in State law, it would not become effective until January 1978.

DENIAL OF UNEMPLOYMENT COMPENSATION TO ATHLETES AND ILLEGAL ALIENS

(Sec. 303 of the Bill)

The committee bill includes, without modification, a provision of the House bill which would require that all State unemployment compensation programs include prohibitions against the payment of benefits to athletes during the off season and to illegal aliens. This requirement would be effective starting with 1978.

Professional athletes.—The bill would prohibit the payment of benefits to a professional athlete during periods between two successive sports seasons if the athlete had been professionally participating in such sports during the previous season and there is reasonable assurance that he will participate in such sports during the following season. The provision is intended to deny benefits to professional athletes in the off season.

Illegal aliens.—The bill also prohibits payment of benefits to an alien not lawfully admitted into the United States.

PRORATION OF COSTS

(Sec. 203 of the Bill)

Under present law, when an individual's unemployment compensation is based on both Federal and non-Federal employment the Federal share of the benefit cost is based on the "added cost" which results from the Federal employment. The Department of Labor informs the committee that this method of determining Federal costs is cumbersome and expensive.

The bill would substitute a new method of determining the Federal share of the cost. Under the new method the Federal percentage of the cost would be the same percentage that the Federal wages bear to the sum of the Federal and non-Federal wages.

E. NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

(Sec. 411 of the Bill)

Description and purpose of the Commission.—The bill establishes a National Commission on Unemployment Compensation for the purpose of undertaking a comprehensive examination of the present

unemployment compensation system and developing appropriate recommendations for further changes. The Commission would be comprised of three members appointed by the President Pro Tempore of the Senate, three members by the Speaker of the House of Representatives, and seven by the President. Selection of members of the Commission would be aimed at assuring balanced representation of interested groups.

The Commission would be authorized to appoint such staff as it requires and to contract for necessary consultant services. The final report of the Commission would have to be sent to the President and to Congress by January 1, 1979, and the Commission would terminate 90 days after the report is submitted.

Agenda items for the Commission.—The bill states that the Commission's study shall include, without being limited to, the following items:

(1) Examination of the adequacy, and economic and administrative impacts, of the changes made by H.R. 10210 in coverage, benefit provisions, and financing;

(2) Identification of appropriate purposes, objectives, and future directions for unemployment compensation programs, including railroad unemployment insurance;

(3) Examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) Examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) Examination of (A) the problems of claimant fraud and abuse in the unemployment compensation programs; and (B) the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse;

(6) Examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(7) Examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

(8) Conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to formulate appropriate recommendations, and to obtain relevant information, attitudes, opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

(9) Review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

(10) Identification of any weaknesses in such method and any problem which results from the operation of such method; and

(11) Formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics.

F. PROVISIONS RELATING TO THE SUPPLEMENTAL SECURITY INCOME PROGRAM

CRITERIA FOR DETERMINING DISABILITY OF CHILDREN

(Sec. 501 of the Bill)

For purposes of the Supplemental Security Income program, the law provides the following definition of disability:

"An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)."

The development of guidelines for applying this definition to children has proved to be an extraordinarily slow and difficult process for the Social Security Administration. Four years after the enactment of the legislation there are still no adequate guidelines to assist the State agencies in making their determinations.

The regulations which have been issued with regard to disability for children state that if a child's impairments are not those listed, eligibility may still be met if the impairments "singly or in combination . . . are determined by the Social Security Administration, with appropriate consideration of the particular effect of the disease processes in childhood, to be medically the equivalent of a listed impairment."

SSA has issued several statements on the subject, but in none of its communications to the State agencies which make the disability determinations has it provided specific guidelines for the agencies to follow. On the contrary, these communications have simply indicated that SSA was in the process of developing more definitive guidelines for childhood disability determinations.

The State agencies have indicated that they believe they have insufficient guidelines for determining childhood disability. The Council of State Administrators of Vocational Rehabilitation testified before the House Subcommittee on Public Assistance in 1975:

Guidelines for development of special SSI childhood claims are also needed. Although [previous SSA directives] attempted to provide some temporary guidelines, we have not received any additional guidelines based on a year and a half's experience since then. A national study of title XVI child cases was made in April and May of 1974, and perhaps this experience could help provide clearer guidelines. Unfortunately, a side effect of this situation has been a decrease in State agency general staff respect for central and regional office expertise and ability. The opinion is often expressed that Federal personnel are too far removed from the grass-roots of case adjudication, and seem insensitive to State agency problems. It appears to many State agency personnel that Federal personnel are (if not unwilling) unable to respond to DDS needs with timeliness. It is difficult for an adminis-

tration to combat this feeling among personnel, when policy guidance is not forthcoming.

SSA has been circulating draft regulations with criteria for child disability for some time. The fact that they have not yet been issued, however, has meant that the States have been forced to adopt their own guidelines, which may well vary greatly from jurisdiction to jurisdiction.

Although the committee recognizes the difficulty of developing objective criteria for determining how to apply the disability definition in the law to children, it believes there should be some assurance that children with similar conditions are treated similarly throughout the Nation.

The committee bill thus would require the Social Security Administration within 120 days after enactment to publish criteria to be used by the State agencies in making child disability determinations. This action should end the present uncertainty which the State agencies and others have with regard to what constitutes disability in a child and enable disabled children to benefit from the program on an equitable basis.

SERVICES FOR DISABLED CHILDREN

(Sec. 501 of the Bill)

Another problem related to the child disability program is that there is no provision for services or referral to services which is appropriate for children. The law presently requires the Secretary to make provision for referral of all disabled individuals "to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act." The law further requires an individual receiving benefits to "accept such rehabilitation services as are made available to him," and the Secretary is authorized to pay the State agency for costs incurred in providing services for those referred to it.

The provision for vocational rehabilitation services was designed for persons who could be expected to enter or reenter the work force. It has been of limited benefit even to adult SSI beneficiaries and has not been considered appropriate for children. The lack of a provision in the law has meant that children receiving benefits have not been subject to any formal referral process at all. Being without any legislative guidance, the Social Security Administration has not developed procedures for offices to use on a uniform basis. Some children may now benefit from the general information and referral procedures which exist to some degree or other in all district offices. But this haphazard approach provides no assurance that a child ever actually comes into contact with an agency providing services to handicapped and disabled children, or that services are provided on a continuing basis.

The committee believes that there are substantial arguments to support the establishment of a formal referral procedure. Many disabled children have conditions which can be improved through proper medical and rehabilitative services, especially if the conditions are treated early in life. The referral of children who have been deter-

mined to be disabled could thus be of very great immediate and long-term benefit to the children and families who receive appropriate services. In addition, the procedure could be expected to result in long-range savings for the SSI program, in that some children, at least, would have their conditions satisfactorily treated and would move off the disability rolls instead of receiving payments for their entire lifetime. The referral of disabled children by the Social Security Administration would also serve as a casefinding tool for community agencies serving disabled children and assist them in focusing their services in behalf of these children. Many communities have the capability to help disabled and handicapped children, but are not always able to identify those with the greatest need.

The committee bill thus would require the referral by the Social Security Administration of children under age 16 to the State agency which administers the State crippled children's services program, or to another agency which the Governor determines is capable of administering the State plan (developed to meet the requirements of the committee bill) in a more efficient and effective manner than the crippled children's agency. If the Governor determines that the plan should be administered by an agency other than the crippled children's agency, he must state the reasons for this determination in the State plan. It is intended by the committee that there will be a single agency to administer the plan in each State. The committee believes that in the interest of effective administration of the SSI program the Social Security Administration should not be required to make referrals to more than the one agency in any one State.

Under the committee bill, the acceptance of any services offered would continue to be a condition of continuing SSI eligibility.

The committee bill would require the Secretary of HEW to issue regulations prescribing the criteria for approval of State plans for (1) assuring appropriate counseling for disabled children and their families, (2) establishment of an individual service plan for children and prompt referral to appropriate medical, educational and social services, (3) monitoring to assure adherence to each individual service plan, and (4) provision for disabled children age 6 and under and for children who have never attended public school and who require preparation to take advantage of public educational services of medical, social, developmental, and rehabilitative services in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

State plans would have to provide for the establishment of an identifiable unit within the administering agency to be responsible for the administration of the plan. The plans would also have to provide for coordination with other agencies serving disabled children. The committee recognizes that there are other programs offering services to disabled and handicapped children who may or may not be eligible for SSI payments. It is expected that services provided under these programs will be used in meeting the needs of SSI disabled children for services which are recommended under individual service plans.

For fiscal year 1977 and the following two fiscal years the Secretary would be required to pay to the State administering agency those costs incurred under the State plan which do not exceed the State's share of the \$30 million provided for each year under the bill. In order to

assure equitable distribution of funds the State share would be based on the proportion of children under age 7 in each State. Up to 10 percent of the State's funds could be used for purposes of counseling, referral and monitoring as provided under the State plan for children up to age 16. The remainder of the funds would be used to provide services for children age 6 and under, and for children who have never attended public school in cases where such services promise to enhance the child's ability to benefit from subsequent education or training.

The bill provides for certain safeguards in the use of funds authorized under the provision. The new funds made available could not be used to replace State and local funds. In addition, with regard to programs or services provided to nondisabled children, the funds could be used only to pay that portion of the cost which is related to the additional requirements of the disabled children.

INSTITUTIONALIZATION OF A SPOUSE

(Sec. 502 of the Bill)

Under present law an aged or disabled couple receives a benefit amount which is lower than would be the case if the spouses were treated as two individuals. The present monthly benefit amount is \$167.80 for an individual and \$251.80 for a couple. When one member of a couple is in a medicaid institution, the monthly maximum benefit amount for the couple is \$192.80. This represents \$167.80 payable on behalf of the spouse who is not in an institution, and a \$25 personal needs allowance payable to a person in a medicaid institution. These amounts are reduced by the amount of any other income (apart from certain specified exclusions) which the couple has. The committee has been informed that a problem arises when one member of a couple is institutionalized and his income is used to meet a part of the expenses of the institutional care and also to reduce the amount of the couple's SSI benefit. The committee bill therefore provides that for any month during all of which a spouse is in an institution, the two persons involved would be treated as individuals rather than as a couple for purposes of applying their separate incomes in computing any required reduction of the SSI benefit amount.

PROTECTION OF MEDICAID ELIGIBILITY

(Sec. 503 of the Bill)

Present law provides for annual cost-of-living increases in payments under title II of the Social Security Act. Present law also provides for an increase in SSI benefits by the same percentage as is applicable for title II social security benefits. The intent of tying the two programs together for purposes of the benefit increase was to assure that SSI recipients would get the benefit of any social security benefit increase which became payable under the cost-of-living increase provision. An increase in social security benefits, therefore, does not ordinarily result in a decrease in SSI benefits.

However, because of the operation of the provision in the law for disregarding \$20 a month of other income in determining the SSI benefit amount, there are some cases in which a social security benefit

increase can have the effect of making individuals ineligible for SSI and also for medicaid benefits. For example, an individual in a State which does not supplement the basic Federal amount of \$167.80 a month may still be eligible for \$.80 in SSI payments even though he has a social security check of \$187. This is because his social security check is considered as only \$167 (applying the \$20 disregard) for purposes of SSI. Because he is eligible for an SSI payment, regardless of amount, he is automatically eligible for medicaid. However, if in the future there were, for example, a 10 percent increase in social security benefits, his social security check would amount to \$205.70. The SSI payment amount would increase to \$184.60. The \$20 disregard would still be effective, and his social security check for SSI purposes would be \$185.70, or \$1.10 above the SSI eligibility limit. Although the individual still has the advantage of a cash benefit increase, the loss of SSI eligibility may carry with it a loss of medicaid.

The committee bill would protect individuals in this situation by providing that no recipient of Federal benefits or State supplementary payments under the SSI program would lose eligibility for medicaid as the result of the operation of the cost-of-living benefit increase provision in title II. The committee provision would thereby insure that an increase intended to benefit the aged and disabled would not have inadvertent harmful effects. The provision would be effective with respect to benefit increases starting June 1977.

CHANGE IN SSI SAVINGS CLAUSE

(Sec. 504 of the Bill)

The SSI law provides for basic Federal payments to the needy aged, blind and disabled. The law also allows States to supplement the Federal payments, and many have chosen to do so. When there is an increase in Federal SSI benefits, these States ordinarily have two choices: they may pass through the Federal benefit increase to individuals and continue to supplement the payment by the amount they were already paying, or they may reduce their supplementation, thus providing for no increase in the recipient's combined Federal-State payment and realizing savings to the State treasury. Most States in the past have elected to pass through SSI benefit increases to their recipients, and have been able to do so at no increase in State costs. Three States, however, do incur a State cost if they elect to pass through the Federal increase because part of the Federal increase automatically results in a reduction in payments to these States under a 1972 savings clause provision. The States affected by the operation of the savings clause are Hawaii, Massachusetts and Wisconsin.

The committee believes that these States should also be able to pass through the Federal increases to the aged, blind and disabled without adding to their costs. The committee bill provides that payments under the savings clause to the States affected by it will no longer be reduced when there is a cost-of-living increase in Federal SSI benefits. The provision would be effective with respect to increases taking place after June 1977.

ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS

(Sec. 505 of the Bill)

Present law provides that individuals who are in nonmedical public institutions are not eligible for SSI benefits. There has been a long-standing prohibition in public assistance statutes against payments on behalf of persons in public institutions largely on the grounds that these programs should not be used to subsidize State and local institutions which may be substandard or which may represent an inappropriate type of care for the individuals involved. There are some situations, however, in which this prohibition may work to the disadvantage of the aged and disabled individuals whom the legislation is intended to help. This is particularly true with regard to the mentally retarded who often can be best served by placement in a small home or other institutional setting of a residential nature.

The committee believes that States and localities should not be discouraged from creating and subsidizing residential facilities which may be of great benefit to many individuals who need a place to live but do not need the kind of care which is provided in a medicaid institution. The bill would amend present law to provide that the prohibition against SSI payments to persons in public institutions would not be applicable in the case of publicly operated community residences which serve no more than 16 residents. In addition, the bill provides that Federal SSI payments would not be reduced in the case of assistance based on need which is provided by States and localities. This would allow States and localities to supplement the Federal SSI benefits through either direct or indirect assistance to persons in public institutions. It would also allow States and localities to provide emergency and other special need assistance to SSI recipients without causing a reduction in their Federal SSI payments.

The bill would also repeal section 1616(e) of the Act which now provides that Federal SSI payments be reduced in the case of payments made by States or localities for medical or any other type of remedial care provided by an institution if the care is or could be provided in a medicaid institution. This requirement was originally incorporated into the SSI statute to prevent the use of SSI benefits as a means of evading Federal medicaid requirements and thus funding care in substandard facilities. The Social Security Administration has never attempted to enforce this requirement of Federal law, however. In addition, the committee is concerned that some of the Federal medicaid standards which would be applied may be inappropriate for some of the institutions affected by this provision. The committee continues to be concerned, however, that the SSI program not become a source for funding substandard institutions. Therefore the committee bill adds a provision which would require each State to establish or designate State or local authorities to establish, maintain and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of SSI recipients is residing. The standards would have to be appropriate to the needs

of the recipients and the character of the facilities involved. They would govern admission policies, safety, sanitation, and protection of civil rights.

The bill also would require each State to make available for public review, as a part of its social services program planning procedures under title XX of the Social Security Act, a summary of the standards, and to make available to any interested individual a copy of the standards and the procedures available in the State to insure their enforcement. There would have to be made available a list of any waivers of standards which have been made and any violations of standards which have come to the attention of the enforcement authority. Each State would be required to certify annually to the Secretary of Health, Education, and Welfare that it is in compliance with the requirements for State standards. The committee bill would also provide for the reduction of Federal payments in the case of persons who are in group facilities which are not approved under State standards as determined by the appropriate State or local authorities.

ASSISTANCE PROGRAMS IN THE NORTHERN MARIANAS

(Sec. 506 of the Bill)

The covenant establishing the Northern Mariana Islands as a new United States territory with Commonwealth status was approved on March 24, 1976 (Public Law 94-241). The terms of this covenant provide, in a general way, that Federal assistance programs applicable to the other U.S. territories will be extended to the Northern Marianas Commonwealth as of a date to be proclaimed by the President after the constitution of that jurisdiction has been drafted and approved. The covenant also specifically provides that the Social Security Act programs of Supplemental Security Income (SSI) and special social security benefits for certain aged, uninsured persons will also be made available in the Northern Marianas.

The committee believes that those who negotiated the covenant establishing the Northern Marianas Commonwealth acted inappropriately in providing therein for that jurisdiction to have in force these two Social Security Act programs which Congress had specifically limited in applicability to the 50 States and the District of Columbia. Because the covenant had to be approved or rejected as a whole, it was not possible to delete this provision by an amendment during Senate consideration earlier this year. However, under the terms of the covenant itself, this provision is subject to change by subsequent legislation.

The program of special social security benefits for uninsured individuals was incorporated in the Tax Adjustment Act of 1966 on the basis of a Senate floor amendment. Under this provision, individuals who reached age 72 prior to 1972 could receive a special social security benefit, funded from general revenues, even though they had little or no coverage in employment under social security. This provision was enacted as a transitional measure, and by this time it applies only to persons who are now 77 years of age or over. The committee

does not believe that there is any reason for making this program applicable to the territorial jurisdictions.

The program of Supplemental Security Income (SSI) assures a minimum monthly income of \$167.80 to aged, blind, and disabled persons in the 50 States and the District of Columbia; for couples, the income support level is \$251.80. (In certain States these amounts are augmented by supplementary State payments.) This program was specifically limited to 50 States and the District of Columbia when it was enacted in 1972. In the territorial jurisdictions of Guam, Puerto Rico, and the Virgin Islands, the Social Security Act provides for separate programs of aid and services for the aged, blind, and disabled. These programs provide for Federal matching of public assistance and social service expenditures up to specified limits. The committee believes that it is appropriate to continue to provide assistance under these programs which operate through locally developed plans which can take into account the economic and other circumstances prevailing in each territory.

The extension of the SSI program to the jurisdiction of Puerto Rico would increase Federal expenditures under that program by some \$400 million per year and would make a substantial majority of the aged population in that Commonwealth eligible for that program and potentially eligible for medicaid. While the Marianas Covenant covers a much smaller population (less than 15,000) and therefore involves only minimal cost, the committee believes that the establishment of the SSI program there could be taken as a precedent for its expansion to the other territories. Legislation was, in fact, passed by the House of Representatives earlier this year which would have used the Marianas Covenant as a precedent for making the SSI program applicable to Guam and which would have authorized the President to extend the program at a later date to other territories. At the request of the committee, this provision was deleted from that legislation.

The committee agrees that the new Commonwealth of the Northern Mariana Islands should enjoy the same Federal assistance programs which apply to other territorial jurisdictions. However, extension to that territory or to any territory of programs now limited in scope to the 50 States and the District of Columbia should be accomplished only to the extent that Congress finds appropriate after considering such extension through the usual legislative processes.

For the reasons outlined above, the committee has added to the bill an amendment which will remove the applicability of the Supplemental Security Income program and the program of special social security benefits for uninsured persons from the Marianas Commonwealth. The committee amendment also provides specific statutory language to carry out the general provision in the covenant extending to the Northern Marianas those Social Security Act assistance programs which are applicable to the other territories. These programs are aid to the aged, blind, and disabled (titles I, X, XIV, and XVI of the Social Security Act), aid to families with dependent children (title IV), and medical assistance (title XIX). The amendment also establishes in title XI of the act limitations on Federal funding under these

programs which are comparable on a per capita basis to the limitations now in force for Guam, Puerto Rico, and the Virgin Islands.

IV. BUDGETARY IMPACT OF THE LEGISLATION

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and sections 308 and 403 of the Congressional Budget Act of 1974, the following statements are made concerning the budgetary impact of the bill.

A. UNEMPLOYMENT COMPENSATION PROVISIONS

The committee estimates that the enactment of the unemployment compensation provisions of H.R. 10210 with the amendments proposed by the committee will result in net increased budget authority and revenues.

The estimates in this section were prepared by the Department of Labor. The committee has also received an alternative set of cost estimates which were prepared by the Congressional Budget Office and which are printed in section C below.

The following table shows the effect of the committee bill on unemployment compensation revenues and expenditures. It was prepared by the Department of Labor on the basis of the assumptions shown below:

- (1) Increase in average weekly benefit amount is 5 percent per year.
- (2) Increase in total wages is based on covered employment increasing at 2 percent per year and the Consumer Price Index increasing as follows:

	Fiscal year—				
	1977	1978	1979	1980	1981
CPI increase (percent).....	5.6	5.6	5.1	4.1	2.9

(3) The national unemployment rate¹ is as follows:

	Fiscal year—				
	1977	1978	1979	1980	1981
Unemployment (percent).....	7.0	6.4	5.6	5.0	4.9

¹ Total unemployment rather than insured unemployment.

The increases shown in the table in revenues under the committee bill as compared with present law represent both revenue and budget authority changes. The unemployment trust fund is not expected to have any increased outlays under the committee bill until fiscal year 1979 when the change in the extended benefit trigger provision begins to have an impact, as shown in the table.

In addition to the trust fund amounts shown in the table, the committee bill provides an entitlement to the States and to nonprofit

REVENUES AND EXPENDITURES UNDER PRESENT LAW, HOUSE BILL, AND COMMITTEE BILL: FISCAL YEARS 1977-81¹

[Billions]

Revenues	1977			1978			1979			1980			1981		
	Pres- ent law	House bill	Com- mittee bill	Pres- ent law	House bill	Com- mittee bill	Pres- ent law	House bill	Com- mittee bill	Pres- ent law	House bill	Com- mittee bill	Pres- ent law	House bill	Com- mittee bill
State taxes.....	8.2	8.2	8.2	9.0	9.6	9.4	9.1	11.1	10.7	9.3	12.3	11.9	10.0	13.2	12.8
Federal taxes.....	1.6	1.9	1.9	1.7	2.4	2.4	1.7	3.0	3.0	1.8	3.1	3.1	1.8	3.1	3.1
Revenues.....	9.8	10.1	10.1	10.7	12.0	11.8	10.8	14.1	13.7	11.1	15.4	15.0	11.8	16.3	15.9
Regular benefits.....	8.8	8.8	8.8	8.5	8.8	8.3	7.9	8.3	7.9	7.9	8.3	7.9	8.6	9.0	8.6
Extended/emergency benefits.....	4.2	4.2	4.2	1.8	1.9	1.9	.4	.8	.55	.4	.7	.55	.5	.8	.65
Administrative costs.....	1.3	1.3	1.3	1.3	1.3	1.3	1.3	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2
Expenditures.....	14.3	14.3	14.3	11.6	12.0	11.5	9.6	10.3	9.35	9.5	10.2	9.35	10.3	11.0	10.05
Net increase (+) or decrease (-) in unemployment funds.....	-4.5	-4.5	-4.5	-9	0	+0.3	+1.2	+3.8	+4.35	+1.6	+3.2	+5.65	+1.5	+5.3	+5.85

¹ Estimates based on OMB assumptions underlying mid-session review of 1977 budget. Data in table includes only revenues from unemployment payroll taxes and benefits financed through such taxes. Not included are benefits financed through reimbursement from Federal or State/local reimbursement (i.e., benefits for former Federal employees and servicemen or benefits for State and local employees and employees of non-profit institutions which are paid for through reimbursement rather than payroll taxes).

elementary and secondary schools for reimbursement of the early year costs of providing unemployment benefits. These provisions which do not affect the trust fund will require budget authority and outlays of an estimated \$198 million in fiscal year 1978 and \$50 million in fiscal year 1979. Other fiscal years are not affected.

The table shows a fiscal year 1977 increase in revenues of \$0.3 billion using the economic assumptions of the Labor Department. One of the estimates underlying the recently adopted second concurrent resolution on the budget is that the provision in the committee bill will increase revenues by \$387 million in fiscal 1977 (\$0.4 billion when rounded). This estimate is based on the same provision of law but different economic assumptions. The committee adopts the \$0.4 billion estimate underlying the budget resolution.

B. SUPPLEMENTAL SECURITY INCOME AMENDMENTS

The committee has not received cost estimates of the Supplemental Security Income (SSI) amendments to the bill from either the Administration or the Congressional Budget Office.¹ The committee estimates that these provisions will affect budget authority and outlays as follows:

INCREASE IN BUDGET AUTHORITY AND OUTLAYS REQUIRED IN FISCAL YEARS 1977-81

[In millions]

Provision	1977	1978	1979	1980	1981
Services for disabled children (sec. 501).....	\$24	\$30	\$30		
Income of institutionalized spouse (sec. 502).....	1	1	1	1	1
Protection of medicaid eligibility (sec. 503).....	8	9	10	12	14
Savings clause for 3 States (sec. 504).....	2	10	15	20	25
Eligibility in small public institutions (sec. 505)....	8-16	39-81	78-161	116-242	155-323
Assistance programs in Northern Marianas (sec. 606).....		(¹)	(¹)	(¹)	(¹)
Total	43-51	89-131	134-217	149-275	195-363

¹ It is estimated that section 2 of the bill will have no fiscal impact prior to fiscal year 1978 and that, in fiscal year 1978 and each subsequent year, it will result in a reduction in Federal costs as compared with existing law. The committee does not believe that there is sufficient information to estimate the amount of the savings with any accuracy but states that it would appear to be nominal.

¹ In arriving at the estimates in this section, however, the committee has been guided in part by administration estimates prepared in connection with generally similar provisions in other legislation.

C. CONGRESSIONAL BUDGET OFFICE ESTIMATES OF UNEMPLOYMENT
REVENUES UNDER THE BILL

The following estimates were received by the committee from the Congressional Budget Office.

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 20, 1976.

Hon. RUSSELL LONG,
*Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: As requested by your staff, the Congressional Budget Office has reviewed the revenue and cost impact of the Senate Finance Committee version of H.R. 10210, the Unemployment Compensation Amendments of 1976.

The five-year revenue and reimbursement estimates and supporting material are included with this letter. Further information is available to the Committee members and staff should they need it.

Due to the complexity of the outlay impact of the Unemployment Compensation amendments and the addition to the bill of several amendments affecting the Supplemental Security Income program, the Congressional Budget Office is unable at this time to provide the Committee with five-year estimates in those areas.

We are, however, in the process of examining those provisions and developing the necessary five-year estimates and will provide those to the Committee as soon as they are available. We anticipate that an additional week will be necessary to complete this effort.

Should the Committee so desire, we will be pleased to discuss this matter further or to provide the Committee with progress reports on our work.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE

REVENUE ESTIMATE, SEPTEMBER 17, 1976

1. Bill number: H.R. 10210 (Senate Finance Committee version).

2. Bill title: Unemployment Compensation Amendments of 1976.

3. Purpose of bill: These amendments are designed to achieve the following primary objectives:

(A) Restore solvency in the unemployment compensation program at the State and Federal levels by increasing revenues;

(B) Modify the "trigger mechanism" in the Extended Benefits program; and

(C) Establish a National Study Commission that will undertake an examination of the present unemployment compensation program and make recommendations for further improvements.

4. Estimate of revenues: CBO estimates that the following additional revenues would be associated with the provisions

of H.R. 10210. These estimates are based on the economic assumptions contained in the CBO July 15 Economic Forecast.

TOTAL ADDITIONAL TAX REVENUES AND REIMBURSEMENTS DUE TO H.R. 10210

[Millions of dollars]

	Fiscal year—				
	1977	1978	1979	1980	1981
Net tax revenues.....	400	2,100	3,300	3,800	4,200
Reimbursements.....	0	300	800	900	900
Total additional revenues.....	400	2,400	4,100	4,700	5,100

5. Basis for revenue estimate: The CBO July 15 Economic Forecast assumes that the average annual increase in current dollar Gross National Product (GNP) would be 12 percent in fiscal year 1977 and would average 11 percent over the 5-year period (fiscal year 1977–1981). Over the same period, constant dollar (real) GNP would average a 5 percent annual increase. The unemployment rate is assumed to fall from 6.7 percent in 1977 to 4.6 percent in 1981, and the inflation rate is assumed to range between 5 and 6 percent over the period. These assumptions should not be considered as constituting a recommended or target path. They indicate, instead, a possible path that the economy could follow.

Revenue estimate: The increase in revenues due to H.R. 10210 results from the increase in the effective Federal tax rate on employers from 0.5 percent to 0.7 percent (effective January 1, 1977); from the increase in the taxable wage base from \$4,200 to \$6,000 (effective January 1, 1978); and, to a lesser extent, from the increase in covered employees (who work for State and local governments, and nonprofit organizations) for whom employers pay unemployment insurance or make reimbursements to State trust funds.

In order to create these estimates, the total revenues under H.R. 10210 and under current law 1977–1981 were both calculated and the difference taken. The equations used to calculate Federal and State revenues were:

Total annual Federal revenue=(average annual covered wage) × (person-years of covered employment) × (ratio of taxable wages to total wages) × (effective Federal tax rate).

Total annual State revenues=(average annual covered wage) × (person-years of covered employment) × (ratio of taxable wages to total wages) × (weighted average tax rate for 50 States) plus (reimbursable amount).

The average annual covered wage, the level of covered employment, and the ratio of taxable wages to total wages were each calculated using separate statistical equations. These equations estimate the appropriate variable as a function of the unemployment rate, GNP, rate of inflation, wages and salaries, and civilian labor force series contained in the CBO July 15 Economic Forecast. The ratio of taxable wages to total covered wages is also a function of the taxable wage base series implied by present law and by H.R. 10210.

It was not possible to construct a rigorous model which could provide accurate estimates of the average State tax-rate. This is due to the fact that the current level of loans to State trust funds is unprecedented and therefore the average State tax rate in the near future could not be estimated accurately using the latest actual data. Consequently a series for this rate was assumed on the basis of the estimated rates for calendar year 1975 and fiscal year 1976. The average State rate is assumed to be 2.7 percent for the period 1977-81.

Reimbursable revenue amounts from State and local government employers are assumed equal to benefit amounts for these groups: generally, State and local government employers do not pay into the State funds until after their employees have received benefits, at which point they are liable for the entire amount. For this estimate, CBO used DOL actual data from fiscal year 1975 reimbursable collections as the reimbursable base. Estimates of increases in reimbursable revenues due to newly covered employees are calculated by CBO. The benefits paid to State and local government employees during the transition period of H.R. 10210 and reimbursed by Federal general revenues (not by employers) are not counted as revenues for this estimate.

The following table presents a breakdown of the total net gain in funds due to H.R. 10210.

ADDITIONAL FUNDS DERIVED FROM H.R. 10210

[In millions of dollars]

	Fiscal year—				
	1977	1978	1979	1980	1981
State trust fund revenues.....	0	1,400	2,500	2,900	3,300
Federal FUTA revenues.....	400	700	800	900	900
Reimbursables.....	0	300	800	900	900
Total additional revenues and reimbursables..	400	2,400	4,100	4,700	5,100

6. Revenue estimate comparison: Although the Department of Labor has prepared a revenue estimate for H.R. 10210, CBO does not have, at this time, the necessary supporting methodology from the Department required to make a comparison of estimates.

7. Previous CBO estimate: May 13, 1976. The May estimate contained the following level of additional revenues at an assumed 2.7 percent average state tax rate:

Fiscal year:	Million
1977.....	\$400
1978.....	3,600
1979.....	4,500
1980.....	7,200
1981.....	7,700

These figures were based on CBO Path B economic assumptions which are less optimistic than those contained in the CBO July 15 Economic Forecast. However, after the May estimates, the CBO unemployment insurance receipts model was substantially revised to incorporate a more sophisticated methodology. This revision allows us to explicitly calculate the effects of a variety of economic assumptions. This added accuracy accounts for the downward revision of our revenue estimates.

8. Estimate prepared by: Marc Freiman and Robert F. Black.

9. Estimate approved by:

JAMES L. BLUM,
Assistant Director, for Budget Analysis.

D. ALLOCATIONS UNDER SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT

As of the time this bill is being reported, the committee has not completed its allocations pursuant to the second concurrent resolution on the budget for fiscal year 1977 under section 302(b) of the Congressional Budget Act. The committee states, however, that those allocations, when reported, will fully accord with the results of H.R. 10210, as reported to the Senate.

V. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the Committee on the motion to report the bill. The bill was ordered reported by voice vote.

VI. CHANGES IN EXISTING LAW

In compliance with subsection (4) of the XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

Chapter 23—FEDERAL UNEMPLOYMENT TAX ACT

- Sec. 3301. Rate of tax.
 Sec. 3302. Credits against tax.
 Sec. 3303. Conditions of additional credit allowance.
 Sec. 3304. Approval of State laws.
 Sec. 3305. Applicability of State law.
 Sec. 3306. Definitions.
 Sec. 3307. Deductions as constructive payments.
 Sec. 3308. Intrastamentalities of the United States.
 Sec. 3309. State law coverage of [certain] services performed for nonprofit organizations [and for State hospitals and institutions of higher education] or governmental entities.
 Sec. 3310. Judicial review.
 Sec. 3311. Short title.

SEC. 3301. RATE OF TAX.

[There is hereby imposed on every employer (as defined in section 3306(a)) for the calendar year 1970 and each calendar year thereafter an excise tax, with respect to having individuals in his employ, equal to 3.2 percent of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)). In the case of wages paid during the calendar year 1973, the rate of such tax shall be 3.28 percent in lieu of 3.2 percent.]

There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employ, equal to—

(1) 3.4 percent, in the case of a calendar year beginning before the first calendar year after 1976, as of January 1 of which there is not a balance of repayable advances made to the extended unemployed compensation account (established by section 905(a) of the Social Security Act); or

(2) 3.2 percent, in the case of such first calendar year and each calendar year thereafter;
of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)).

SEC. 3303. CONDITION OF ADDITIONAL CREDIT ALLOWANCE.

(a) * * *

* * * * *

(f) TRANSITION.—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies, a State law may provide that an organization (or group of organizations) [which elects, when such election first becomes available under the State law] which elects before April 1, 1972, to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions into such fund under the State law with respect to such service performed in its employ before January 1, 1969, is not required to make any such payment (in

lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to service performed in its employ, until the total of such compensation equals the amount—

(1) by which the contributions paid by such organization (or group) with respect to a period before the election provided by section 3309(a)(2), exceed

(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of wages paid by it or service performed in its employ, whichever is appropriate.

(g) *TRANSITIONAL RULE FOR UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976.*—*To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies by reason of the enactment of the Unemployment Compensation Amendments of 1976, a State law may provide that an organization (or group of organizations) which elects, when such election first becomes available under the State law with respect to such service, to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions into such fund under the State law with respect to such service performed in its employ before the date of the enactment of this subsection, is not required to make any such payment (in lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to such service performed in its employ, until the total of such compensation equals the amount—*

(1) *by which the contributions paid by such organization (or group) on the basis of wages for such service with respect to a period before the election provided by section 3309 (a)(2), exceed*

(2) *the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of such service performed in its employ or wages paid for such service, whichever is appropriate.*

SEC. 3304. APPROVAL OF STATE LAWS.

(a) *REQUIREMENTS.*—The Secretary of Labor shall approve any State law submitted to him, within 30 days of such submission, which he finds provides that—

(1) all compensation is to be paid through public employment offices or such other agencies as the Secretary of Labor may approve;

(2) no compensation shall be payable with respect to any day of unemployment occurring within 2 years after the first day of the first period with respect to which contributions are required;

(3) all money received in the unemployment fund shall (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 3305(b)) immediately upon such receipt be paid over to the Secretary to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act (49 Stat. 640; 52 Stat. 1104, 1105; 42 U.S.C. 1104);

(4) all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment com-

pensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b); except that—

(A) an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration; and

(B) the amounts specified by section 903(c)(2) of the Social Security Act may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices;

(5) compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(A) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) if as a condition of being employed the individual would be required to join a company union or to resign or refrain from joining any bona fide labor organization;

(6)(A) compensation is payable on the basis of service to which section 3309(a)(1) applies, in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to such law; except **[that]** *that (i) with respect to service in an instructional, research, or principal administrative capacity for an [institution of higher education] educational institution to which section 3309(a)(1) applies, compensation shall not be payable based on such service for any week commencing during the period between two successive academic years (or, [when the contract provides] when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual [who has a contract to] if there is a reasonable assurance that such individual will perform services in any such capacity for any [institution or institutions of higher education] educational institution or institutions for both of such academic years or both of such terms, and (ii) with respect to service in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such service may be denied to any individual for any week which commences during a period between 2 successive academic terms or similar periods if such individual performs such service in the first of such academic terms (or similar periods) and there is a reasonable assurance that such individual will perform such service in the second of such academic terms (or similar periods), and*

(B) payments (in lieu of contributions) with respect to service to which section 3309(a)(1)(A) applies may be made into the State unemployment fund on the basis set forth in section 3309(a)(2);

(7) an individual who has received compensation during his benefit year is required to have had work since the beginning of such year in order to qualify for compensation in his next benefit year;

(8) compensation shall not be denied to an individual for any week because he is in training with the approval of the State agency (or because of the application, to any such week in training, of State law provisions relating to availability for work, active search for work, or refusal to accept work);

(9)(A) compensation shall not be denied or reduced to an individual solely because he files a claim in another State (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another State (or such a contiguous country) at the time he files a claim for unemployment compensation;

(B) the State shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under the State law with his wages and employment covered under the unemployment compensation law of other States which are approved by the Secretary of Labor in consultation with the State unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations. Any such arrangement shall include provisions for (i) applying the base period of a single State law to a claim involving the combining of an individual's wages and employment covered under two or more State laws, and (ii) avoiding duplicate use of wages and employment by reason of such combining;

(10) compensation shall not be denied to any individual by reason of cancellation of wage credits or total reduction of his benefit rights for any cause other than discharge for misconduct connected with his work, fraud in connection with a claim for compensation, or receipt of disqualifying income;

(11) extended compensation shall be payable as provided by the Federal-State Extended Unemployment Compensation Act of 1970;

[(12) each political subdivision of the State shall have the right to elect to have compensation payable to employees thereof (whose services are not otherwise subject to such law) based on service performed by such employees in the hospitals and institutions of higher education (as defined in section 3309(d)) operated by such political subdivision; and, if any such political subdivision does elect to have compensation payable to such employees thereof (A) the political subdivision shall pay into the State unemployment fund, with respect to the service of such employees, payments (in lieu of contributions), and (B) such employees will be entitled to receive, on the basis of such service, compensation payable on the same conditions as compensation which is payable on the basis of similar service for the State which is subject to such law.]

(12) no person shall be denied compensation under such State law solely on the basis of pregnancy or termination of pregnancy;

(13) compensation shall not be payable to any individual on the basis of any services, substantially all of which consist of partici-

pating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods);

(14) (A) compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act),

(B) any data or information required of individuals applying for compensation to determine whether compensation is not payable to them because of their alien status shall be uniformly required from all applicants for compensation.

(C) in the case of an individual whose application for compensation would otherwise be approved, no determination by the State agency that compensation to such individual is not payable because of his alien status shall be made except upon a preponderance of the evidence;

(15) no compensation shall be payable to any individual for any week of unemployment which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any similar periodic payment which is based on the previous employment or self-employment of such individual;

[(13)] (16) all the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

(b) **NOTIFICATION.**—The Secretary of Labor shall, upon approving such law, notify the governor of the State of his approval.

(c) On October 31 of each taxable year the Secretary of Labor shall certify to the Secretary each State whose law he has previously approved, except that he shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds has amended its law so that it no longer contains the provisions specified in subsection (a) or has with respect to the 12-month period ending on such October 31 failed to comply substantially with any such provision in such subsection. No finding of a failure to comply substantially with any provision in paragraph (5) of subsection (a) shall be based on an application or interpretation of State law (1) until all administrative review provided for under the laws of the State has been exhausted, or (2) with respect to which the time for judicial review provided by the laws of the State has not expired, or (3) with respect to which any judicial review is pending. On October 31 of any taxable year after 1971, the Secretary shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the

enactment of the Employment Security Amendments of 1970 to be included therein, or has with respect to the 12-month period (10-month period in the case of October 31, 1972) ending on such October 31, failed to comply substantially with any such provision. *On October 31 of any taxable year after 1977, the Secretary shall not certify any State which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the Unemployment Compensation Amendment, of 1976 to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.*

(d) NOTICE OF NONCERTIFICATION.—If at any time the Secretary of Labor has reason to believe that a State whose law he has previously approved may not be certified under subsection (c), he shall promptly so notify the governor of such State.

(e) CHANGE OF LAW DURING 12-MONTH PERIOD.—Whenever—

(1) any provision of this section, section 3302, or section 3303 refers to a 12-month period ending on October 31 of a year, and

(2) the law applicable to one portion of such period differs from the law applicable to another portion of such period, then such provision shall be applied by taking into account for each portion the law applicable to such portion.

(f) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—For purposes of subsection (a)(6), the term “institution of higher education” means an educational institution in any State which—

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

(4) is a public or other nonprofit institution.

* * * * *

SEC. 3306. DEFINITIONS.

(a) EMPLOYER.—For purposes of this chapter, the term “employer” means, with respect to any calendar year, any person who—

(1) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$1,500 or more, or

(2) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

(b) WAGES.—For purposes of this chapter, the term “wages” means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to [\$4,200] \$6,000 with respect to em-

ployment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to **[\$4,200] \$6,000** to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

- (A) retirement, or
- (B) sickness or accident disability, or
- (C) medical or hospitalization expenses in connection with sickness or accident disability, or
- (D) death;

(3) any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary—

(A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a), or

(C) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a);

(6) the payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under section 301 (or the corresponding section of prior law), or

(B) of any payment required from an employee under a State unemployment compensation law;

(7) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

(8) any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of 65, if he did not work for the employer in the period for which such payment is made;

(9) remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217; or

(10) any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(A) upon or after the termination of an employee's employment relationship because of (i) death, (ii) retirement for disability, or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer, and

(B) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents),

other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated.

(c) **EMPLOYMENT.**—For purposes of this chapter, the term "employment" means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and (A) any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, and (B) any service, of whatever nature, performed after 1971 outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation [or in the Virgin Islands]) by a citizen of the United States as an employee of an American employer (as defined in subsection (j)(3)), except—

(1) agricultural labor (as defined in subsection (k));

(j) **STATE, UNITED STATES, AND [CITIZEN] AMERICAN EMPLOYER.**—For purposes of this chapter—

[(1) STATE.—The term “State” includes the District of Columbia and the Commonwealth of Puerto Rico.

[(2) UNITED STATES.—The term “United States” when used in a geographical sense includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.]

(1) STATE.—*The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.*

(2) UNITED STATES.—*The term “United States” when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.*

(3) AMERICAN EMPLOYER.—The term “American employer” means a person who is—

(A) an individual who is a resident of the United States,

(B) a partnership, if two-thirds or more of the partners are residents of the United States,

(C) a trust, if all of the trustees are residents of the United States, or

(D) a corporation organized under the laws of the United States or of any State.

An individual who is a citizen of the Commonwealth of Puerto Rico or the Virgin Islands (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

* * * * *

SEC. 3309. STATE LAW COVERAGE OF [CERTAIN] SERVICES PERFORMED FOR NONPROFIT ORGANIZATIONS [AND FOR STATE HOSPITALS AND INSTITUTIONS OF HIGHER EDUCATION] OR GOVERNMENTAL ENTITIES

(a) STATE LAW REQUIREMENTS.—For purposes of section 3304 (a)(6)—

(1) except as otherwise provided in subsections (b) and (c), the services to which this paragraph applies are—

(A) service excluded from the term “employment” solely by reason of paragraph (8) of section 3306(c), and

(B) service performed in the employ of the State, or any instrumentality of the State or of the State and one or more other States, for a hospital or institution of higher education located in the State, if such service is excluded from the term “employment” solely by reason of paragraph (7) of section 3306(c); and

(2) the State law shall provide that an organization (or group of organizations) which, but for the requirements of this paragraph, would be liable for contributions with respect to service to which paragraph (1)(A) applies may elect, for such minimum period and at such time as may be provided by State law, to pay (in lieu of such contributions) into the State unemployment fund amounts equal to the amounts of compensation attributable under the State law to such service. The State law may provide safeguards to ensure that organizations so electing will make the payments required under such elections.

(b) **SECTION NOT TO APPLY TO CERTAIN SERVICE.**—This section shall not apply to service performed—

(1) in the employ of (A) a church or convention or association of churches, or (B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(2) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

[(3) in the employ of a school which is not an institution of higher education;]

(3) *in the employ of a governmental entity referred to in paragraph (7) of section 3306(c), if such service is performed by an individual in the exercise of his duties—*

(A) *as an elected official;*

(B) *as a member of a legislative body, or a member of the judiciary, of a State or political subdivision thereof;*

(C) *as a member of the State National Guard or Air National Guard;*

(D) *as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or*

(E) *in a position which, under or pursuant to the State law, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week;*

(4) in a facility conducted for the purpose of carrying out a program of—

(A) rehabilitation for individuals whose earnings capacity is impaired by age or physical or mental deficiency or injury, or

(B) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(5) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or an agency of a State or political subdivision thereof, by an individual receiving such work relief or work training; and

[(6) for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution.]

(6) *by an inmate of a custodial or penal institution.*

(c) **NONPROFIT ORGANIZATIONS MUST EMPLOY 4 OR MORE.**—This section shall not apply to service performed during any calendar year in the employ of any organization unless on each of some 20 days during such calendar year or the preceding calendar year, each day being in a different calendar week, the total number of individuals who were employed by such organization in employment (determined without regard to section 3306(c)(8) and by excluding service to which this section does not apply by reason of subsection (b)) for some portion of the day (whether or not at the same moment of time) was 4 or more.

[(d) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—For purposes of this section, the term “institution of higher education” means an educational institution in any State which—

[(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

[(2) is legally authorized within such State to provide a program of education beyond high school;

[(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepared students for gainful employment in a recognized occupation; and

[(4) is a public or other nonprofit institution.]

* * * * *

Chapter 62—TIME AND PLACE

* * * * *

SEC. 6157. PAYMENT OF FEDERAL UNEMPLOYMENT TAX ON QUARTERLY OR OTHER TIME PERIOD BASIS.

(a) GENERAL RULE.—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

(1) if the person

(A) during any calendar quarter in the preceding calendar year paid wages of \$1,500 or more, or

(B) on each of some 20 days during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment, compute the tax imposed by section 3301 for each of the first three calendar quarters in the calendar year, and

(2) if paragraph (1) does not apply, compute the tax imposed by section 3301—

(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer, and

(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary or his delegate.

(b) COMPUTATION OF TAX.—The tax for any calendar quarter or other period referred to in paragraph (1) or (2) of subsection (a) shall be computed by multiplying the amount of wages (as defined in section 3306(b)) paid in such calendar quarter or other period by 0.5 percent. In the case of wages paid in any calendar quarter or other period during [1973, the amount of such wages shall be multiplied

by 0.58 percent in lieu of 0.5 percent] *a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.7 percent in lieu of 0.5 percent.*

(c) SPECIAL RULE FOR CALENDAR YEARS 1970 AND 1971.—For purposes of subsection (a), the tax computed as provided in subsection (b) for any calendar quarter or other period shall be reduced (1) by 66½ percent if such quarter or period is in 1970, and (2) by 33½ percent if such quarter or period is in 1971.

(d) SPECIAL RULE WHERE ACCUMULATED AMOUNT DOES NOT EXCEED \$100.—Nothing in this section shall require the payment of tax with respect to any calendar quarter or other period if the tax under section 3301 for such period, plus any unpaid amounts for prior periods in the calendar year, does not exceed \$100.

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SOCIAL SECURITY ACT, AS ASSEMBLED

* * * * *

TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

* * * * *

PAYMENT TO STATES

SEC. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1960—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands* an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{31}{7}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of \$37 multiplied by the total number of recipients of old-age assistance for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received old-age assistance in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as old-age assistance in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i) (I) the Federal percentage (as defined in section 1101(a)(8)) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with

respect to such month as exceeds the product of \$38 multiplied by the total number of recipients of old-age assistance for such month, plus (II) 15 per centum of the total expended during such month as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of \$15 multiplied by the total number of recipients of old-age assistance for such month, or

(ii) (I) the Federal medical percentage (as defined in section 6(c)) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditures with respect to such month as exceeds (a) the product of \$52 multiplied by the total number of such recipients of old-age assistance for such month, or (b) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of \$37 multiplied by such total number of such recipients, plus (II) the Federal percentage of the amount by which the total expended during such month as old-age assistance under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B) (ii), not counting so much of such excess with respect to such month as exceeds the product of \$38 multiplied by the total number of such recipients of old-age assistance for such month;

(2) in the case of Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, and amount equal to—

(A) one-half of the total of the sums expended during such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the total number of recipients of old-age assistance for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of \$45 multiplied by the total number of such recipients of old-age assistance for such month, or (II) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of \$37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of

any expenditure with respect to any month as exceeds the product of \$7.50 multiplied by the total number of such recipients of old-age assistance for such month;

TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

* * * * *

PAYMENT TO STATES

SEC. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 406(b)(2) are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of \$32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of \$100 multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under

part B of Title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof) not counting so much of any expenditure with respect to any month as exceeds \$18 multiplied by the total number of recipients of such aid for such month; and

* * * * *

ALLOTMENT PERCENTAGE AND FEDERAL SHARE

SEC. 423. (a) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capital income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands.*

(b) The "Federal share" for any State for any fiscal year shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such States bears to the per capita income of the United States, except that (1) in no case shall the Federal share be less than 33½ per centum or more than 66½ per centum, and (2) the Federal share shall be 66½ per centum in the case of Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands.*

(c) The Federal share and allotment percentage for each State shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Federal shares and allotment percentages promulgated under section 524(c) of the Social Security Act in 1966 shall be effective for purposes of this section for the fiscal years ending June 30, 1968, and June 30, 1969.

(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

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TITLE IX—MISCELLANEOUS PROVISIONS RELATING TO EMPLOYMENT SECURITY

* * * * *

EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT

Establishment of Account

SECTION 901. (a) * * *

* * * * *

Administrative Expenditures

(c)(1) * * *

* * * * *

(3)(A) For purposes paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year after June 30, 1970, is, except as provided in subparagraph (B) and in the second sentence of section 901(f)(3)(A), an amount equal to 95 percent of the amount estimated and set forth in the budget of the United States Government for such fiscal year as the amount by which the net receipts during such year under the Federal Unemployment Tax Act will exceed the amount transferred under section 905(b) during such year to the extended unemployment compensation account.

(B) The limitation established by subparagraph (A) is increased by any unexpended amount retained in the employment security administration account in accordance with section 901(f)(2)(B).

(C) Each estimate of net receipts under this paragraph shall be based upon [a tax rate of 0.5 percent] (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.7 percent in the case of any calendar year for which the rate of tax under such section 3301 is 3.4 percent.

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EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT

Establishment of Account

SEC. 905. (a) * * *

Transfers to Account

(b)(1) Except as provided by paragraph (3), the Secretary of the Treasury shall transfer (as of the close of July 1970, and each month thereafter), from the employment security administration account to the extended unemployment compensation account established by subsection (a), an amount determined by him to be equal, in the case of any month before April 1972, to one-fifth, and in the case of any month after March 1972, to one-tenth, of the amount by which—

(A) transfers to the employment security administration account pursuant to section 901(b)(2) during such month, exceed

(B) payments during such month from the employment security administration account pursuant to section 901(b)(3) and (d). If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred. [In the case of any month after March 1973 and before April 1974, the first sentence of this paragraph shall be applied by substituting "thirteen fifty-eighths" for "one-tenth".] In the case of any month after March 1977 and before April of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies,

the first sentence of this paragraph shall be applied by substituting "five-fourteenths" for "one-tenth".

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TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

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PAYMENTS TO STATES

SEC. 1003 (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{31}{100}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$37 multiplied by the total number of recipients of aid to the blind for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the blind in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such months as aid to the blind in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$75 multiplied by the total number of such recipients of aid to the blind for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the total number of recipients of aid to the blind for such month; and

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TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

* * * * *

PART A—GENERAL PROVISIONS

DEFINITIONS

SEC. 1101. (a) When used in this Act—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in titles IV, V, VII, XI, and XIX includes the Virgin Islands [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands. Such term when used in titles III, IX, and XII also includes the Virgin Islands.* Such term when used in title V also includes American Samoa and the Trust Territory of the Pacific Islands. In the case of Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands.* Title I, X, and XIV, and title XVI, (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term "States" when used in such titles (but not in title XVI as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands.*

* * * * *

(8)(A) The "Federal percentage" for any State (other than Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands*) shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the United States; except that the Federal percentage shall in no case be less than 50 per centum or more than 65 per centum.

(B) The Federal percentage for each State (other than Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands*) shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation: *Provided, That* the Secretary shall promulgate such percentage as soon as possible after the enactment of the Social Security Amendments of 1958, which promulgation shall be conclusive for each of the eleven quarters in the period beginning October 1, 1958, and ending with the close of June 30, 1961.

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LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, AND
GUAM

Sec. 1108. (a) Except as provided in 2002(a)(2)(D), the total amount certified by the Secretary of Health, Education, and Welfare under title I, X, XIV, and XVI, and under part A of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—

(1) for payment to Puerto Rico shall not exceed—

- (A) \$12,500,000 with respect to the fiscal year 1968,
- (B) \$15,000,000 with respect to the fiscal year 1969,
- (C) \$18,000,000 with respect to the fiscal year 1970,
- (D) \$21,000,000 with respect to the fiscal year 1971, or
- (E) \$24,000,000 with respect to the fiscal year 1972 and each fiscal year thereafter;

(2) for payment to the Virgin Islands shall not exceed—

- (A) \$425,000 with respect to the fiscal year 1968,
- (B) \$500,000 with respect to the fiscal year, 1969,
- (C) \$600,000 with respect to the fiscal year 1970,
- (D) \$700,000 with respect to the fiscal year 1971, or
- (E) \$800,000 with respect to the fiscal year 1972 and each fiscal year thereafter; [and]

(3) for payment to Guam shall not exceed—

- (A) \$575,000 with respect to the fiscal year 1968,
- (B) \$690,000 with respect to the fiscal year 1969,
- (C) \$825,000 with respect to the fiscal year 1970,
- (D) \$960,000 with respect to the fiscal year 1971, or
- (E) \$1,100,000 with respect to the fiscal year 1972 and each fiscal year thereafter [.] ; and

(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed \$190,000 with respect to any fiscal year.

(b) The total amount certified by the Secretary under part A of title IV, on account of family planning services and services provided under section 402(a)(19) with respect to any fiscal year—

- (1) for payment to Puerto Rico shall not exceed \$2,000,000,
- (2) for payment to the Virgin Islands shall not exceed \$65,000,

[and]

(3) for payment to Guam shall not exceed \$90,000[.], and

(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed \$15,000.

(c) The total amount certified by the Secretary under title XIX with respect to any fiscal year—

- (1) for payment to Puerto Rico shall not exceed \$30,000,000,
- (2) for payment to the Virgin Islands shall not exceed

\$1,000,000, [and]

(3) for payment to Guam shall not exceed \$900,000[.] and

(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed \$160,000.

(d) Notwithstanding the provisions of section 502(a) and 512(a) of this Act, and the provisions of sections 421, 503(1), and 504(1) of this Act as amended by the Social Security Amendments of 1967, and until such time as the Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the initial allotment

specified in such sections, allot such smaller amounts to Guam, American Samoa, *the Commonwealth of the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands as he may deem appropriate.

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TITLE XII—ADVANCES TO STATE UNEMPLOYMENT FUNDS

* * * * *

ADVANCE TO STATE UNEMPLOYMENT FUNDS

SEC. 1201. (a)(1) Advances shall be made to the States from the Federal unemployment account in the Unemployment Trust Fund as provided in this section, and shall be repayable, without interest, in the manner provided in sections 901(d) (1), 903 (b) (2), and 1202. An advance to a State for the payment of compensation in any **[month]** *3-month period* may be made if—

(A) the Governor of the State applies therefor no earlier than the first day of the **[preceding month]** *month preceding the first month of such 3-month period*, and

(B) he furnishes to the Secretary of Labor his estimate of the amount of an advance which will be required by the State for the payment of compensation in **[such month]** *each month of such 3-month period*.

(2) In the case of any application for an advance under this section to any State for any **[month]** *3-month period*, the Secretary of Labor shall—

(A) determine the amount (if any) which he finds will be required by such State for the payment of compensation in **[such month]** *each month of such 3-month period*, and

(B) certify to the Secretary of the Treasury the amount (not greater than the amount estimated by the Governor of the State) determined under subparagraph (A).

The aggregate of the amounts certified by the Secretary of Labor with respect to any **[month]** *3-month period* shall not exceed the amount which the Secretary of the Treasury reports to the Secretary of Labor is available in the Federal unemployment account for advances with respect to such **[month]** *3-month period*.

(3) For purposes of this subsection—

(A) an application for an advance shall be made on such forms, and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the State unemployment compensation law, as the Secretary of Labor deems necessary or relevant to the performance of his duties under this title,

(B) the amount required by any State for the payment of compensation in any **[month]** *3-month period* shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the State's unemployment fund for the payment of compensation in such **[month]** *3-month period*, and

(C) the term "compensation" means cash benefits payable to individuals with respect to their unemployment, exclusive of expenses of administration.

(b) The Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer *in monthly installments* from the Federal unemployment account to the account of the State in the Unemployment Trust Fund the amount certified under subsection (a) by the Secretary of Labor (but not exceeding that portion of the balance in the Federal unemployment account at the time of the transfer which is not restricted as to use pursuant to section 903(b)(1)). *The amount of any monthly installment so transferred shall not exceed the amount estimated by the State to be required for the payment of compensation for the month with respect to which such installment is made.*

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TITLE XIV—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

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PAYMENTS TO STATES

SEC. 1403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{3}{7}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$37 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the permanently and totally disabled in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the permanently and totally disabled in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$75 multiplied by the total number of such recipients of aid to the permanently and totally disabled for such month; and

(2) in the case of Puerto Rico, and Virgin Islands [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to one-half of the total of the sums expended during

such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$3.50 multiplied by the total number of recipients of aid to the permanently and totally disabled for such months; and

* * * * *

TITLE XVI—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED, OR FOR SUCH AID AND MEDICAL ASSISTANCE TO THE AGED

* * * * *

PAYMENTS TO STATES

SEC. 1603. (a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1962—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarters to the aged, blind, or disabled under the State plan (including expenditures for premiums under Part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{3}{7}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of \$37 multiplied by the total number of recipients of such aid for such month (which total number, for purposes of this subsection means (i) the number of individuals who received such aid in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such months as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i) (I) the Federal percentages (as defined in section 1101(a)(8)) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of \$38 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, plus (II) 15 per centum of the total expended during such month as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect

to such month as exceeds the product of \$15 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, or

(ii) (I) the Federal medical percentage (as defined in section 6(c)) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to such month as exceeds (a) the product of \$52 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (b) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of \$37 multiplied by such total number of such recipients plus (II) the Federal percentage of the amount by which the total expended during such month as aid to the aged, blind, or disabled under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of \$38 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(2) in the case of Puerto Rico, the Virgin Islands, [and Guam,] *Guam, and the Commonwealth of the Northern Mariana Islands*, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof) not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of \$45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of \$37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of \$7.50 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

* * * * *

PART A—DETERMINATION OF BENEFITS

Eligibility for and Amount of Benefits

DEFINITION OF ELIGIBLE INDIVIDUALS

SEC. 1611. * * *

* * * * *

LIMITATION ON ELIGIBILITY OF CERTAIN INDIVIDUALS

(e)(1)(A) Except as provided in [subparagraph (B)] *subparagraphs (B) and (C)*, no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, the benefit under this title for such individual for such month shall be payable—

(i) at a rate not in excess of \$300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who does not have an eligible spouse;

(ii) at a rate not in excess of the sum of the applicable rate specified in subsection (b)(1) and the rate of \$300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month; and

(ii) *in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month, at a rate not in excess of the sum of—*

(I) *the rate of \$300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and*

(II) *the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and*

(iii) at a rate not in excess of \$600 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

(C) *As used in subparagraph (A), the term 'public institution' does not include a publicly operated community residence which serves no more than 16 residents.*

(2) No person shall be an eligible individual or eligible spouse for purposes of this title if, after notice to such person by the Secretary

that it is likely that such person is eligible for any payments of the type enumerated in section 1612(a)(2)(B), such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

(3)(A) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirement is contributing to the achievement of the purposes of this title. The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.

* * * * *

Income

MEANING OF INCOME

SEC. 1612. * * *

EXCLUSIONS FROM INCOME

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

* * * * *

(6) [assistance described in section 1616(a) which] *assistance, furnished to or on behalf of such individual (and spouse), which is based on need and furnished by any State or political subdivision of a State;*

* * * * *

REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

[Sec. 1615. (a) In the case of any blind or disabled individual who—

[(1) has not attained age 65, and

[(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan.

[(b) Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such rehabilitation services as are made available to him under the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act; and the Secretary is authorized to pay to the State agency administering or supervising the administration of such State plan the costs incurred in the provision of such services to individuals so referred.

[(c) No individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept vocational rehabilitation services for which he is referred under subsection (a).]

SEC. 1615. (a) In the case of any blind or disabled individual who—

(1) has not attained age 65, and

(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

(b)(1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

(A) assuring appropriate counseling for disabled children referred pursuant to subsection (a) and their families,

(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

(C) monitoring to assure adherence to such service plans, and

(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

(2) Such criteria shall include—

(A) administration—

(i) by the agency administering the State plan for crippled children's services under title V of this act, or

(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

(B) coordination with other agencies serving disabled children; and

(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

(c) Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act or under subsection (b) of this section; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which he is referred under subsection (a).

(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act the costs incurred under such plan in the provision of rehabilitation services to individuals referred for such services pursuant to subsection (a).

(e)(1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (b) of this section, the costs incurred each fiscal year which begins after September 30, 1976, and ends prior to October 1, 1979, in carrying out the State plan approved pursuant to such subsection (b).

(2)(A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 per centum thereof shall be paid with respect to costs incurred with respect to activities described in subsection (b)(1) (A), (B), and (C).

(B) Whenever there are provided pursuant to this section to any child, services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded, for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of such type for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to \$30,000,000 as the under age 7 population of such State (and for purposes of this section the District of Columbia shall be regarded as a State) bears to the under age 7 population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year.

(b) PUBLICATION OF CRITERIA.—The Secretary shall, within 120 days after the enactment of this subsection, publish criteria to be employed to determine disability (as defined in section 1614(a)(3) of the Social Security Act) in the case of persons who have not attained the age of 18.

OPTIONAL STATE SUPPLEMENTATION

Sec. 1616. (a) * * *

[(e) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution to such individual as an inpatient of such institution in the case of any State which has a plan approved under title XIX of this Act if such care is (or could be) provided under a State plan approved under title XIX of this Act by an institution certified under such title XIX.]¹

* * * * *

TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

* * * * *

DEFINITIONS

SEC. 1905. For purposes of this title—

* * * * *

(b) The term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, and (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, [and Guam] *Guam, and the Commonwealth of the Northern Mariana Islands* shall be 50 per centum. The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1110(a)(8).

* * * * *

¹ Effective October 1, 1977, section 1616(e) of such Act is amended to read as follows:

"(e)(1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

"(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 2004 of this Act, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

"(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection.

"(4) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution of the type described in paragraph (1) to such individual as a resident or inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities."

ACT OF JUNE 6, 1933

AN ACT To provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes

* * * * *

SEC. 5. (a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts from time to time as the Congress may deem necessary to carry out the purposes of this Act.

(b) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which (i), except in the case of Guam [and the Virgin Islands], has an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended, and (ii) is found to be in compliance with the Act of June 6, 1933 (48 Stat. 113), as amended, such amounts as the Secretary determines to be necessary for the proper and efficient administration of its public employment offices.

* * * * *

 ACT OF OCTOBER 30, 1972

AN ACT to amend the Social Security Act, and for other purposes

* * * * *

TITLE IV—MISCELLANEOUS

 LIMITATION ON FISCAL LIABILITY OF STATES FOR OPTIONAL
STATE SUPPLEMENTATION

SEC. 401. (a)(1) The amount payable to the Secretary by a State for any fiscal year pursuant to its agreement or agreements under section 1616 of the Social Security Act shall not exceed the non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of the State approved under titles I, X, XIV, and XVI of the Social Security Act (as defined in subsection (c) of this section).

(2) Paragraph (1) of this subsection shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State under such agreements in any fiscal year which does not exceed in the case of any individual the difference between—

(A) the adjusted payment level under the appropriate approved plan of such State as in effect for January 1972 (as defined in subsection (b) of this section), and

(B) the benefits under title XVI of the Social Security Act (*subject to the second sentence of this paragraph*), plus income not excluded under section 1612(b) of such Act in determining such benefits, paid to such individual in such fiscal year,

and shall not apply with respect to supplementary payments to any individual who (i) is not required by section 1616 of such Act to be included in any such agreement administered by the Secretary and (ii) would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972. *In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977."*

* * * * *

FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

* * * * *

TITLE II—FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

* * * * *

PAYMENT OF EXTENDED COMEPNSATION

State Law Requirements

SEC. 202. (a) (1) For purposes of section 3304(a)(11) of the Internal Revenue Code of 1954, a State law shall provide that payment of extended compensation shall be made, for any week of unemployment which begins in the individual's eligibility period, to individuals who have exhausted all rights to regular compensation under the State law and who have no rights to regular compensation with respect to such week under such law or any other State unemployment compensation law or to compensation under any other Federal law and are not receiving compensation with respect to such week under the unemployment compensation law of [the Virgin Islands or] Canada. For purposes of the preceding sentence, an individual shall have exhausted his rights to regular compensation under a State law (A) when no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period, or (B) when his rights to such compensation have terminated by reason of the expiration of the benefit year with respect to which such rights existed.

* * * * *

EXTENDED BENEFIT PERIOD

Beginning and Ending

Sec. 203. (a) * * *

* * * * *

National "On" and "Off" Indicators

[(d) For purposes of this section—

[(1) There is a national "on" indicator for a week if for each of the three most recent calendar months ending before such week), the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the month in question).

[(2) There is a national "off" indicator for a week if for each of the three most recent calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the month in question).

Effective with respect to compensation for weeks of unemployment beginning before December 31, 1976, and beginning after December 31, 1974 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a national "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if the phrase "4.5 per centum." contained in paragraphs (1) and (2), read "4 percentum."]

(d) For purposes of this section—

(1) *There is a national "on" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).*

(2) *There is a national "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).*

State "On" and "Off" Indicators

[(e) For purposes of this section—

[(1) There is a State "on" indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—

[(A) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

[(B) equaled or exceeded 4 per centum.

[(2) There is a State "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve

weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) was not satisfied. Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "off" indicator ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof. Effective with respect to compensation for weeks of unemployment beginning before January 1, 1974, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State by law may provide that the determination of whether there has been a State "off" indicator ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof and may provide that the determination of whether there has been a State "on" indicator beginning any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, (ii) the 4 per centum contained in subparagraph (B) thereof were 4.5 per centum, and (iii) paragraph (1) of subsection (b) did not contain subparagraph (B) thereof. In the case of any individual who has a week with respect to which extended compensation was payable pursuant to a State law referred to in the preceding sentence, if the extended benefit period under such law does not expire before January 1, 1974, the eligibility period of such individual for purposes of such law shall end with the thirteenth week which begins after December 31, 1973. Effective with respect to compensation for weeks of unemployment beginning before March 31, 1977, and beginning after December 31, 1973 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof.】

(e) *For purposes of this section—*

(1) *There is a State 'on' indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—*

(A) *equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and*

(B) *equaled or exceeded 4 per centum.*

(2) *There is a State 'off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) is not satisfied.*

Effective with respect to compensation for weeks of unemployment beginning after March 30, 1977 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'on' or 'off' indicator beginning or ending any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, and (ii) the figure

'4' contained in subparagraph (B) thereof were '6'; except that, notwithstanding any such provision of State law, any week for which there would otherwise be a State 'on' indicator shall continue to be such a week and shall not be determined to be a week for which there is a State 'off' indicator.'". For purposes of this subsection, the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.

PAYMENTS TO STATES

Amount Payable

SEC. 204. (a)(1) There shall be paid to each State an amount equal to one-half of the sum of—

(A) the sharable extended compensation, and

(B) the sharable regular compensation,

paid to individuals under the State law.

(2) No payment shall be made to any State under this subsection in respect of compensation for which the State is entitled to reimbursement under the provisions of any Federal law other than this Act.

(3) In the case of compensation which is sharable extended compensation or sharable regular compensation by reason of the provision contained in the last sentence of section 203(d), the first paragraph of this subsection shall be applied as if the words "one-half of" read "100 per centum of" but only with respect to compensation that would not have been payable if the State law's provisions as to the State "on" and "off" indicators omitted the 120 percent factor as provided for by Public Law 93-368 and by section 106 of this Act.

* * * * *

DEFINITIONS

SEC. 205. For purposes of this title—

(1) The term "compensation" means cash benefits payable to individuals with respect to their unemployment.

(2) The term "regular compensation" means compensation payable to an individual under any State unemployment compensation law (including compensation payable pursuant to 5 U.S.C. chapter 85), other than extended compensation and additional compensation.

(3) The term "extended compensation" means compensation (including additional compensation and compensation payable pursuant to 5 U.S.C. chapter 85) payable for weeks of unemployment beginning in and extended benefit period to an individual under those provisions of the State law which satisfy the requirements of this title with respect to the payment of extended compensation.

(4) The term "additional compensation" means compensation payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(5) The term "benefits year" means the benefit year as defined in the applicable State law.

(6) The term "base period" means the base period as determined under applicable State law for the benefit year.

(7) The term "Secretary" means the Secretary of Labor of the United States.

(8) The term "State" includes the District of Columbia [and], the Commonwealth of Puerto Rico, *and the Virgin Islands*.

(9) The term "State agency" means the agency of the State which administers its State law.

(10) The term "State law" means the unemployment compensation law of the State, approved by the Secretary under section 3304 of the Internal Revenue Code of 1954.

(11) The term "week" means a week as defined in the applicable State law.

* * * * *

SECTION 102 OF THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974

FEDERAL-STATE AGREEMENTS

SEC. 102. (a) * * *

(b) Any such agreement shall provide that the State agency of the State will make payments of emergency compensation—

(1) to individuals who—

(A) (i) have exhausted all rights to regular compensation under the State law;

(ii) have exhausted all rights to extended compensation, or are not entitled thereto, because of the ending of their eligibility period for extended compensation, in such State;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law; and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of [the Virgin Islands or] Canada,

* * * * *

TITLE 5, UNITED STATES CODE

* * * * *

Chapter 85—UNEMPLOYMENT COMPENSATION

SUBCHAPTER I—EMPLOYEES GENERALLY

SEC.

- 8501. Definitions.
- 8502. Compensation under State agreement.
- 8503. Compensation absent State agreement.
- 8504. Assignment of Federal service and wages.
- 8505. Payments to States.
- 8506. Dissemination of information.
- 8507. False statements and misrepresentations.
- 8508. Regulations.

SUBCHAPTER II—EX-SERVICEMEN

- SEC.
 8521. Definitions; application.
 8522. Assignment of Federal service and wages.
 8523. Dissemination of information.
 8524. Accrued leave.
 8524. Accrued leave.*
 8525. Effect on other statutes.

Subchapter I—EMPLOYEES GENERALLY

§ 8501. Definitions

For the purpose of this subchapter—

(1) * * *

* * * * *

(6) "State" means the several States, the District of Columbia, [and] the Commonwealth of Puerto Rico, *and the Virgin Islands*; [and]

(7) "United States", when used in a geographical sense, means the States [.] ; and

(8) "*base period*" means the base period as defined by the applicable State unemployment compensation law for the benefit year.

* * * * *

§ 8503. Compensation absent State agreement

(a) * * *

[(b) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to the Virgin Islands, the Secretary, under regulations prescribed by him and on the filing of a claim for compensation under this subsection by the Federal employee, shall pay the compensation to him in the same amounts, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the District of Columbia if his Federal service and Federal wages had been included as employment and wages under that law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages.]

[(c)] (b) A Federal employee whose claim for compensation under subsection (a) [or (b)] of this section is denied is entitled to a fair hearing under regulations prescribed by the Secretary. A final determination by the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

[(d) For the purpose of this section, the Secretary may—

[(1) use the personnel and facilities of the agency in the Virgin Islands cooperating with the United States Employment Service under chapter 4B of title 29; and

[(2) delegate to officials of that agency the authority granted to him by this section when he considers the delegation to be necessary in carrying out the purpose of this subchapter.

【For the purpose of payments made to that agency under chapter 4B of title 29, the furnishing of the personnel and facilities is deemed a part of the administration of the public employment offices of that agency.】

§ 8504. Assignment of Federal service and wages

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his first claim for compensation for the benefit year. However—

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State; *and*

(2) if his last official station in Federal service before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim [; and].

【(3) if his first claim is filed while he is residing in the Virgin Islands, his Federal service and Federal wages shall be assigned to the Virgin Islands.】

§ 8505. Payments to States

(a) Each State is entitled to be paid by the United States [an amount equal to the additional cost to the State of payments of compensation in accordance with an agreement under this subchapter which would not have been made by the State but for the agreement.】 *with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.*

* * * * *

§ 8506. Dissemination of information

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include findings of the employing agency concerning—

(1) whether or not the Federal employee has performed Federal service;

(2) the periods of Federal service;

(3) the amount of Federal wages; and

(4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the Secretary. The regulations shall include provision for correction by the employing agency of errors and omissions. Findings made in accordance with the regulations are final

and conclusive for the purpose of sections 8502(d) and 8503(c) of this title. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this chapter.

* * * * *

Subchapter II—EX-SERVICEMEN

§ 8521. Definitions ; application

(a) For the purpose of this subchapter—

(1) “Federal service” means active service, including active duty for training purposes, in the armed forces which either began after January 31, 1955, or terminated after October 27, 1958, if—

(A) that service was continuous for 90 days or more, or was terminated earlier because of an actual service-incurred injury or disability; and

(B) with respect to that service, the individual—

(i) was discharged or released under conditions other than dishonorable; and

(ii) was not given a bad conduct discharge or, if an officer, did not resign for the good of the service;

(2) “Federal wages” means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compensation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind; and

(3) “State” means the several States, the District of Columbia, [and] the Commonwealth of Puerto Rico, *and the Virgin Islands.*

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subsection (a) of this section.

§ 8522. Assignment of Federal service and wages

Notwithstanding section 8504 of this title, Federal service and Federal wages not previously assigned shall be assigned to the State [or to the Virgin Islands, as the case may be] in which the claimant first files claim for unemployment compensation after his latest discharge or release from Federal service. This assignment is deemed as assignment under section 8504 of this title for the purpose of this subchapter.

* * * * *

PUBLIC LAW 90-248

SEC. 248 (a) * * *

(b) Notwithstanding subparagraphs (A) and (B) of section 403 (a)(3) of such Act (as amended by this Act), the rate specified in such subparagraphs in the case of Puerto Rico, the Virgin Islands, **[and Guam]** *Guam, and the Commonwealth of the Northern Mariana Islands* shall be 60 per centum (rather than 75 or 85 per centum).

(c) Effective July 1, 1969, neither the provisions of clauses (A) through (C) of section 402(a)(7) of such Act as in effect before the enactment of this Act nor the provisions of section 402(a)(8) of such Act as amended by section 202(b) of this Act shall apply in the case of Puerto Rico, the Virgin Islands, **[or Guam]** *Guam, or the Commonwealth of the Northern Mariana Islands*. Effective no later than July 1, 1972, the State plans of Puerto Rico, the Virgin Islands, **[and Guam]** *Guam, and the Commonwealth of the Northern Mariana Islands* approved under section 402 of such Act shall provide for the disregarding of income in making the determination under section 402 (a)(7) of such Act in amounts (agreed to between the Secretary and the State agencies involved) sufficiently lower than the amounts specified in section 402(a)(8) of such Act to reflect appropriately the applicable differences in income levels.

(d) The amendment made by section 220(a) of this Act shall not apply in the case of Puerto Rico, the Virgin Islands, **[or Guam]** *Guam, or the Commonwealth of the Northern Mariana Islands*.

(e) Effective with respect to quarters after 1967, section 1905(b) of such Act is amended by striking out "55 per centum" and inserting in lieu thereof "50 per centum".

* * * * *

PUBLIC LAW 93-647

* * * * *

SEC. 7. (a) * * *

(b) The amendments made by section 3 of this Act shall be effective with respect to payments under sections 403 and 603 of the Social Security Act for quarters commencing after September 30, 1975, except that the amendments made by section 3(a) shall not be effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, **[or Guam]** *Guam, or the Commonwealth of the Northern Mariana Islands*.



Conference Report to accompany
H.R. 10210, House of
Representatives Report No.
94-1745.

THE UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

OCTOBER 1, 1976.—Ordered to be printed

Mr. ULLMAN, from the committee of conference, submitted the
following

CONFERENCE REPORT

[To accompany H.R. 10210]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 3, 11, 12, 14, 17, 18, 19, 21, 29, 30, 33, 36, 37, 38, 39, 40, 41, 43, 44, 45, and 46, and agree to the same.

That the Senate recede from its amendments numbered 2, 5, 6, 7, 8, 9, 10, 13, 16, 20, 22, 26, 27, 28, 34, 35, and 52.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1 and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment, and on page 2 of the House bill after line 3 insert the following:

SEC. III. COVERAGE OF CERTAIN AGRICULTURAL EMPLOYMENT.

(a) *NONCASH REMUNERATION.*—Section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out “or” at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof “; or”, and by adding at the end thereof the following new paragraph:

“(11) remuneration for agricultural labor paid in any medium other than cash.”.

(b) *COVERAGE OF AGRICULTURAL LABOR*.—Paragraph (1) of section 3306(c) of such Code (defining employment) is amended to read as follows:

“(1) agricultural labor (as defined in subsection (k)) unless—

“(A) such labor is performed for a person who—

“(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)), or

“(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 10 or more individuals; and

“(B) such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;”.

(c) *EFFECTIVE DATE*.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 112. TREATMENT OF CERTAIN FARMWORKERS.

(a) *GENERAL RULE*.—Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

“(o) *SPECIAL RULE IN CASE OF CERTAIN AGRICULTURAL WORKERS*.—

“(1) *CREW LEADERS WHO ARE REGISTERED OR PROVIDE SPECIALIZED AGRICULTURAL LABOR*.—For purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader—

“(A) if—

“(i) such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or

“(ii) substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

“(B) if such individual is not an employee of such other person within the meaning of subsection (i).

“(2) *OTHER CREW LEADERS*.—For purposes of this chapter, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1)—

“(A) such other person and not the crew leader shall be treated as the employer of such individual; and

“(B) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his behalf or on behalf of such other person) for the agricultural labor performed for such other person.

“(3) **CREW LEADER.**—For purposes of this subsection, the term ‘crew leader’ means an individual who—

“(A) furnishes individuals to perform agricultural labor for any other person,

“(B) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and

“(C) has not entered into written agreement with such other person under which such individual is designated as an employee of such other person.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 113. COVERAGE OF DOMESTIC SERVICE.

(a) **GENERAL RULE.**—Paragraph (2) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended to read as follows:

“(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of \$1,000 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year;”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 114. DEFINITION OF EMPLOYER.

(a) **GENERAL RULE.**—Subsection (a) of section 3306 of the Internal Revenue Code of 1954 (defining employer) is amended to read as follows:

“(a) **EMPLOYER.**—For purposes of this chapter—

“(1) **IN GENERAL.**—The term ‘employer’ means, with respect to any calendar year, any person who—

“(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$1,500 or more, or

“(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

For purposes of this paragraph, there shall not be taken into account any wages paid to, or employment of, an employee performing domestic services referred to in paragraph (3).

“(2) **AGRICULTURAL LABOR.**—In the case of agricultural labor, the term ‘employer’ means, with respect to any calendar year, any person who—

“(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$20,000 or more for agricultural labor, or

“(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least 10 individuals in employment in agricultural labor for some portion of the day.

“(3) DOMESTIC SERVICE.—In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, the term ‘employer’ means, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of \$1,000 or more for such service.

“(4) SPECIAL RULE.—A person treated as an employer under paragraph (3) shall not be treated as an employer with respect to wages paid for any service other than domestic service referred to in paragraph (3) unless such person is treated as an employer under paragraph (1) or (2) with respect to such other service.”

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 6157 of such Code (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended to read as follows:

“(a) GENERAL RULE.—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

“(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services with respect to which the person is such an employer for such preceding calendar year (as so determined), and

“(2) if the person is not such an employer for the preceding calendar year with respect to any services (as so determined), compute the tax imposed by section 3301 on wages paid for services with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

“(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

“(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

And the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be stricken out by the Senate amendment, strike out line 14 on page 11 of the House bill and all that follows down through line 13 on page 12, and after line 13 on page 11 of the House bill insert the following:

(1) Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking out "except that" and all that follows down through ", and," at the end thereof and inserting in lieu thereof the following:

except that—

"(i) with respect to services in an instructional research, or principal administrative capacity for an educational institution to which section 3309(a)(1) applies, compensation shall not be payable based on such services for any week commencing during the period between two successive academic years (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and

"(ii) with respect to services in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, and"

And the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows:

Strike the matter proposed to be stricken by the Senate amendment and insert in lieu thereof the following:

SEC. 212. DENIAL OF CERTAIN PAYMENTS UNDER THE EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(4) The amount which, but for this paragraph, would be payable under this subsection to any State in respect of any compensation paid to an individual whose base period wages include wages for services to which section 3306(c)(7) of the Internal Revenue Code of 1954 applies shall be reduced by an amount which bears the same ratio to the amount which, but for this paragraph, would be payable under this subsection to such State in respect of such compensation as the amount of the base period wages attributable to such services bears to the total amount of the base period wages."

(b) *EFFECTIVE DATE.*—*The amendment made by this section shall apply with respect to compensation paid for weeks of unemployment beginning on or after January 1, 1979.*

And the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23 and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment, strike out “were ‘6’ ” and insert in lieu thereof “were ‘5’ ”.

And the Senate agree to the same.

Amendment numbered 24:

That the House recedes from its disagreement to the amendment of the Senate numbered 24, and agrees to the same with an amendment as follows:

Insert the matter proposed to be inserted by the Senate, and on page 35, line 21, of the House bill, strike out “amendments and insert in lieu thereof “amendment”.

And the Senate agree to the same.

Amendment numbered 25:

That the House recedes from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment, strike out “amendments” and insert in lieu thereof “amendment”.

And the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31 and agree to the same with an amendment as follows:

Strike out the period at the end of paragraph (14) (B) which is proposed to be inserted by the Senate amendment and insert in lieu thereof “, and” and strike out the quotation marks at the end of paragraph (14) (C) which is proposed to be inserted by the Senate amendment.

And the Senate agree to the same.

Amendment numbered 32:

That the House recedes from its disagreement to the amendment of the Senate numbered 32 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(15) the amount of compensation payable to an individual for any week begins after September 30, 1979, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week;

And the Senate agree to the same.

Amendment numbered 42:

That the House recedes from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment, strike out "containing" and all that follows and insert in lieu thereof a period.

And the Senate agree to the same.

Amendment numbered 53:

That the House recedes from its disagreement to the amendment of the Senate numbered 53 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 506. ELECTION OF LOCAL GOVERNMENTS TO USE REIMBURSEMENT METHOD.

(a) *IN GENERAL.*—Paragraph (2) of section 3309(a) of the Internal Revenue Code 1954 (relating to State law requirements) is amended—

(1) by striking out "an organization" and inserting in lieu thereof "a governmental entity or any other organization",

(2) by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (1)", and

(3) by striking out "that organizations" and inserting in lieu thereof "that governmental entities or other organizations".

(b) *TECHNICAL AMENDMENT.*—Subparagraph (B) of section 3304(a)(6) of such Code is amended by striking out "section 3309(a)(1)(A)" and inserting in lieu thereof "section 3309(a)(1)".

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.

And the Senate agree to the same.

Amendment numbered 56:

That the House recedes from its disagreement to the amendment of the Senate numbered 56 and agree to the same with amendments as follows:

(1) Strike out sections 603 and 604 which are proposed to be inserted by the Senate amendment and insert the following:

SEC. 603. DENIAL OF SPECIAL UNEMPLOYMENT ASSISTANCE TO NON-PROFESSIONAL EMPLOYEES OF EDUCATIONAL INSTITUTIONS DURING PERIODS BETWEEN ACADEMIC TERMS.

(a) *Section 203 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new subsection:*

"(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any work commencing during a period between two successive academic years or terms if—

"(1) *such individual performed such services for any educational institution or agency in the first of such academic years or terms; and*

"(2) *there is a reasonably assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms."*

(b) *The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.*

(2) Redesignate section 605 which is proposed to be inserted by the Senate amendment as section 604.

And the Senate agree to the same.

That the amendments of the Senate numbered 47, 48, 49, 50, 51, 54, and 55 are reported in disagreement.

AL ULLMAN,
JAMES A. BURKE,
JAMES C. CORMAN,
CHARLES B. RANGEL,
WILLIAM A. STEIGER,
BILL FRENZEL,

Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
GAYLORD NELSON,
WILLIAM D. HATHAWAY,
CARL T. CURTIS,
PAUL FANNIN,
CLIFFORD HANSEN,
JACOB K. JAVITS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 10210 to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action (other than action of a merely technical nature) agreed upon by the managers and recommended in the accompanying conference report:

SENATE AMENDMENT NUMBERED 1

COVERAGE OF CERTAIN AGRICULTURAL UNEMPLOYMENT

House bill.—Under existing law, agricultural employment is excluded from the definition of the term "employment" and is therefore not subject to the Federal unemployment tax. The House bill amends the definition of employment so as to include agricultural labor which is performed for farm employers who, during the current or preceding calendar year, employ four or more workers in each of 20 weeks, or pay \$10,000 or more in wages for agricultural labor in a calendar quarter. The House bill excludes from the new coverage agricultural labor performed by aliens admitted to the United States to perform agricultural labor under a contract to an employer and who return to their own country upon completion of the contract. This exclusion is a temporary exclusion which expires on January 1, 1980. The provisions of the House bill apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

Senate amendment.—The Senate amendment strikes out this provision of the House bill.

Conference agreement.—The conference agreement follows the House bill except agricultural labor is covered only if performed for a farm employer who, during the current or preceding calendar year, employs 10 or more workers in each of 20 weeks, or pays \$20,000 or more in wages for such labor in any calendar quarter.

TREATMENT OF CERTAIN FARM WORKERS

House bill.—The House bill contains special rules for determining who will be treated as the employer, and, therefore, liable for the Federal unemployment tax, in the case of agricultural workers who are members of a crew furnished by a crew leader to perform agricul-

tural labor for a farm operator. These special rules are required by reason of the extension of coverage for farm workers which is contained in the House bill. Generally, the House bill provides that the crew leader will be treated as the employer of the individuals furnished by him to perform agricultural labor for another person only if such crew leader is registered under the Farm Labor Contractor Registration Act of 1963, or if substantially all of the members of the crew furnished by such crew leader operate or maintain mechanized equipment. In other cases, the farmer is to be treated as the employer. These provisions apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

Senate amendment.—The Senate amendment strikes out the House provisions.

Conference agreement.—The conference agreement follows the House bill.

COVERAGE OF DOMESTIC SERVICE

House bill.—Under existing law, domestic services performed in a private home, local college club, or local chapter of a college fraternity, or sorority are not subject to the Federal unemployment tax. The House bill provides that such services will be subject to the Federal unemployment tax if they are performed for a person who pays cash remuneration of \$600 or more to individuals employed in domestic services in any calendar quarter in the current calendar year or the preceding calendar year. This provision applies with respect to remuneration paid after December 31, 1977, for services performed after such date.

Senate amendment.—The Senate amendment strikes out the provisions of the House bill.

Conference agreement.—The conference agreement follows the House bill except that domestic services is only covered if performed for an employer who pays \$1,000 or more to individuals employed in such services in any calendar year in the calendar quarter year or the preceding calendar year.

DEFINITION OF EMPLOYER

House bill.—The House bill contains a technical amendment to the definition of employer for purposes of the Federal unemployment tax to conform that definition with the new extensions of coverage which are contained in the House bill. The House bill also contains a technical amendment to the requirement that employers pay the Federal unemployment tax on a quarterly basis which is necessary to conform that provision to the extensions of coverage contained in the House bill. These provisions apply with respect to remuneration paid after December 31, 1977 for services performed after such date.

Senate amendment.—The Senate amendment strikes out the provisions of the House bill.

Conference agreement.—The conference agreement follows the House bill.

SENATE AMENDMENTS NUMBERED 2 AND 3

COVERAGE OF CERTAIN SERVICE PERFORMED FOR NONPROFIT ORGANIZATIONS
AND STATE AND LOCAL GOVERNMENTS

House bill.—Under existing law, States are required, as a condition for approval of their unemployment compensation laws, to provide unemployment compensation coverage to individuals performing certain services for nonprofit organizations and for State hospitals and institutions of higher education. The House bill generally requires States to provide unemployment compensation coverage to all employees of State and local governments. The exceptions in the House bill to this general coverage are services performed by employees in the exercise of their duties as: elected officials, appointed officials whose terms are specified by law or who are not required to work on a full-time basis, members of legislative bodies or of the judiciary, members of the State National Guard or Air National Guard, certain employees hired during certain emergencies, and inmates of custodial or penal institutions. These provisions apply with respect to services performed after December 31, 1977.

Senate amendment.—The Senate amendment is the same as the House bill except that it deletes the House provision which excludes from the required coverage appointed officials who serve for a specific term established by law or who are not required to perform services on a substantially full-time basis. In lieu of this exception, the Senate amendment provides an exception for individuals who perform services in a position which, under or pursuant to the State law, is designated as a major nontenured policymaking or advisory position, or as a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENTS NUMBERED 4, 5, 6, AND 7

ELIGIBILITY OF SCHOOL EMPLOYEES DURING CERTAIN PERIODS

House bill.—Under existing law, teachers and other professional employees of institutions of higher education are denied unemployment compensation for weeks commencing during periods between academic years or other similar terms if such individuals have a contract to perform services in both of such academic years or terms. The House bill expands this provision of existing law to cover teachers and other professional employees of primary and secondary institutions of education. The House bill also provides new rules for the treatment of nonprofessional employees of educational institutions which are not institutions of higher education. Under such new rules, the State may deny compensation to such nonprofessional employees for any week which begins before January 1, 1980, and which begins during a period between two successive academic terms or similar periods if the employee performs services in the first of such academic terms or similar periods and there is a reasonable assurance that such employee will perform such services in the second of such academic terms or similar periods.

Senate amendment.—Under the Senate amendment, both non-professional and professional employees of educational institutions would not be eligible for unemployment compensation during periods between academic years or terms if they were performed services for an educational institution in the first of such academic years or terms and an educational institution provides notification of reasonable assurance that they will perform services in the later of the academic years or terms. The Senate amendment also provides that if an individual is denied unemployment compensation coverage by reason of these disqualification provisions and is not in fact later offered employment by an educational institution in the later of such academic years or terms, such individual will receive a retroactive lump-sum payment of unemployment compensation for the weeks for which he was not eligible to receive compensation by reason of these disqualification provisions.

Conference agreement.—The conference agreement provides that unemployment compensation based on services performed for an educational institution shall be denied to a teacher or other professional employee during periods between academic years or terms if there is a contract or reasonable assurance that the individual will perform such services in the forthcoming academic year or term. States are permitted to deny benefits based on services performed for educational institutions to nonprofessional school employees during periods between academic years or terms if there is reasonable assurance that the individual will be employed by the educational institution in the forthcoming academic year or term.

Under the conference agreement, when a claim is filed by an individual on the basis of prior employment in an educational institution or agency for compensation for any week of unemployment between successive academic years or terms, it is intended that the State employment security agency shall obtain from the educational institution or agency a statement as to whether the claimant has been given notification with respect to his or her employment status. If such claimant has been notified that he or she has a contract for, or reasonable assurance of, reemployment for the ensuing academic year or term, then the claimant may not be entitled to unemployment benefits until the educational agency or institution informs the State agency that there is no such reasonable assurance or contract for reemployment or until the employee is not, in fact, offered reemployment. At this point the State agency would have a basis for allowing a claim, assuming that the individual is otherwise eligible under the requirements of the State law.

For purposes of this provision, the term "reasonable assurance" means a written, verbal, or implied agreement that the employee will perform services in the same capacity during the ensuing academic year or term. A contract is intended to include tenure status.

SENATE AMENDMENTS NUMBERED 9, 10, 11, AND 12

FEDERAL REIMBURSEMENT FOR BENEFITS PAID TO NEWLY COVERED WORKERS DURING TRANSITION PERIOD

House bill.—The House bill contains a section which provides Federal reimbursement to States out of general revenues for the costs of

providing unemployment coverage to newly covered individuals during a period after December 31, 1977, to assist in the transition to the new coverage required under the House bill.

Senate amendment.—The Senate amendments make two changes to the House provisions. Senate amendments numbered 9 and 10 conform the House provisions to the coverage provisions which were deleted by the Senate. Senate amendment numbered 11 provides that where the same unemployment has been used to compute pre-1978 entitlement to such unemployment assistance and post-1977 entitlement to regular unemployment compensation benefits, Federal reimbursement for the regular benefits will be available to the extent that the special unemployment assistance benefits were not paid on the basis of the same wages. Under the House bill, any payment of such unemployment assistance benefits even for a brief period would have prevented the transitional Federal funding provisions from applying. Senate amendment numbered 12 corrects a clerical error in the House bill.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENTS NUMBERED 13 AND 14

INCREASE IN FEDERAL UNEMPLOYMENT TAX WAGE BASE AND RATE

House bill.—The House bill increases both the taxable wage base and the tax rate of the Federal unemployment tax. The taxable wage base is increased from \$4,200 to \$6,000. The Federal unemployment tax rate is increased from 3.2 percent of taxable wages to 3.4 percent. This tax rate increase is a temporary measure that will expire on January 1, 1983, or, if earlier, January 1 of the first calendar year after 1976 as of which there are no outstanding repayable advances to the extended unemployment compensation account in the Federal unemployment trust fund. The increase in the taxable wage base applies with respect to remuneration paid after December 31, 1977. The increase in the tax rate applies to remuneration paid after December 31, 1976.

Senate amendment.—The Senate amendments are the same as the House bill except that the Senate amendment provides that the increase in the tax rate will only expire when all of the repayable advances to the extended unemployment compensation account in the Federal unemployment trust fund are repaid.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 15

FINANCING COVERAGE OF STATE AND LOCAL GOVERNMENT EMPLOYEES

House bill.—Under existing law, States receive Federal grants from the Federal Unemployment trust fund for the administrative costs of their unemployment compensation programs. The House bill provides that these grants will no longer be made for the administrative costs which are attributable to State and local government employees. Also, the bill provides that the Federal share of the benefits paid under the extended unemployment compensation program will no

- longer include the costs of extended benefits paid to State and local government employees. These provisions take effect on January 1, 1979.

Senate amendment.—The Senate amendment strikes out the House provisions.

Conference agreement.—The conference agreement follows the Senate amendment with respect to administrative grants, and follows the House bill with respect to extended benefits costs.

SENATE AMENDMENTS NUMBERED 16, 17, 18, AND 19

ADVANCES TO STATE UNEMPLOYMENT FUNDS

House bill.—The House bill allows States to request loans from the Federal unemployment trust fund to pay unemployment compensation benefits for a three-month period rather than a one-month period as under existing law.

Senate amendment.—The Senate amendments are the same as the House provision except that they make it clear that States may make applications for a three-month period but that payments to a State will continue to be made on a monthly basis.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 21

FEDERAL REIMBURSEMENT FOR UNEMPLOYMENT BENEFITS PAID ON THE BASIS OF CERTAIN PUBLIC SERVICE EMPLOYMENT

House bill.—The House bill provides for reimbursements to States from Federal general revenues for unemployment compensation paid on the basis of work in public service jobs funded under the Comprehensive Employment and Training Act of 1973.

Senate amendment.—The Senate amendment strikes out the House provisions.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENTS NUMBERED 23, 24, AND 25

AMENDMENTS TO THE STATE TRIGGER PROVISIONS OF THE EXTENDED PROGRAM

House bill.—Under existing law, there is a State “on” indicator for any week if the State’s insured unemployment rate (not seasonally adjusted) averages at least 4 percent for a 13-week period and is at least 120 percent of the rate for the corresponding periods in the preceding two years. Under existing law, States may waive the 120 percent requirement for weeks which begin before March 31, 1977. Under the House bill, there would be a State “on” indicator for any week if the rate of insured unemployment (seasonally adjusted) under the State law for the period consisting of such week and the immediately preceding 12 weeks equalled or exceeded 4 percent. The House bill applies to weeks beginning after December 31, 1976.

Senate amendment.—The Senate amendment would retain existing law except that it would allow States to provide that there will be a State “on” indicator for any week if the rate of insured unemployment in the State averages at least 6 percent for a 13-week period even though the rate is not 120 percent of the rate for the corresponding periods in the preceding two years. The Senate amendment applies with respect to weeks beginning after March 30, 1977, which is when the existing waiver of the 120 percent requirement ends.

Conference agreement.—The conference agreement follows the Senate amendment, except that the 120 percent factor may be waived by a State when there is at least a 5 percent rate of insured unemployment for the 13-week period rather than the 6 percent rate prescribed in the Senate amendment.

SENATE AMENDMENT NUMBERED 27

REPEAL OF FINALITY PROVISIONS

House bill.—Under existing law the findings of fact by a Federal agency are final with respect to periods of Federal service, amounts of Federal wages, and reasons for termination of Federal service, for purposes of paying unemployment compensation on the basis of Federal service. The House bill makes Federal employees’ claims for unemployment compensation subject to the same administrative procedures that apply to the claims of other workers.

Senate amendment.—The Senate amendment strikes out the House provision.

Conference agreement.—The conference agreement follows the House provision. The amendment repealing finality of Federal findings applies only to unemployment insurance claims and has no other application.

SENATE AMENDMENTS NUMBERED 30, 31, 32, AND 33

DENIAL OF UNEMPLOYMENT COMPENSATION TO ATHLETES, ILLEGAL ALIENS, AND RECIPIENTS OF RETIREMENT BENEFITS

Professional Athletes

House bill.—The House bill provides that compensation shall not be payable to any individual on the basis of services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, to any week which commences between two successive sports seasons (or similar periods) if such individual performs such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods). The House provision is effective for certifications of States for 1978 and subsequent years.

Senate amendment.—The Senate amendment is the same as the House bill except that the provisions do not apply until 1979 in the case of States the legislatures of which do not meet in regular session which ends in 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

Illegal Aliens

House bill.—The House bill provides that compensation shall not be payable on the basis of services performed by an alien who is not lawfully admitted to the United States.

Senate amendment.—Under the Senate amendment, unemployment compensation may not be paid to an alien unless such alien has been lawfully admitted to the United States for permanent residence or is otherwise permanently residing in the United States under color of law. Any data or evidence of citizenship or permanent residence would have to be uniformly required of all applicants for unemployment compensation. A determination of whether an individual is an illegal alien would be based on a preponderance of evidence. The Senate amendment has the same effective date as the House bill except that it takes effect in 1979 in the case of States the legislatures of which do not meet in regular session which ends in 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

Disqualification for Receipt of Pension

House bill.—No provision.

Senate amendment.—Under the Senate amendment, States would be required to reduce the unemployment compensation of an individual by the amount of any public or private pension (including social security retirement benefits and railroad retirement annuities) based on the claimants' previous employment. The Senate amendment applies with respect to certifications of States for 1978 and subsequent years except that in the case of a State the legislature of which does not meet in a regular session which ends in 1978 the amendments takes effect in 1979.

Conference agreement.—The conference agreement follows the Senate amendment, except that the requirement would not take effect until 1979, thereby permitting the National Commission on Unemployment Compensation an opportunity for a thorough study of this issue and the Congress to act in light of its findings and recommendations.

SENATE AMENDMENT NUMBERED 34

PROMPT PAYMENT OF COMPENSATION WHEN DUE

House bill.—No provision.

Senate amendment.—The Senate amendment requires State unemployment compensation agencies to provide hearings to individuals whose claims are not paid with reasonable promptness as defined in Labor Department regulations to be issued within sixty days after the date of the enactment of the bill.

Conference agreement.—The conference agreement omits the matter proposed to be inserted by the Senate amendment.

SENATE AMENDMENT NUMBERED 36

COMPOSITION OF NATIONAL COMMISSION ON
UNEMPLOYMENT COMPENSATION

House bill.—The House bill establishes a National Commission on Unemployment Compensation consisting of 13 members. The House bill provides that the members of the Commission are to be appointed in a manner to insure that there will be a balanced representation of interested parties on the Commission.

Senate amendment.—The Senate amendment would require that labor, industry, the Federal Government, State government, local government, and small business would each have at least one representative appointed to the Commission.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENTS NUMBERED 37, 38, 39, AND 40

DUTIES OF COMMISSION

House bill.—The House bill requires the Commission to study a variety of issues relating to the unemployment compensation programs in order to assess the long-range needs of the programs, to develop alternatives, and to recommend changes in the program.

Senate amendments.—The Senate amendments add to the list of items to be studied by the Commission the study of the problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems. The Senate amendments also require the Commission to examine the feasibility and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance programs.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees intend that the Commission include in its studies an examination of the payment of unemployment compensation to retirees, and the denial of compensation to employees of educational institutions between terms.

SENATE AMENDMENTS NUMBERED 42, 43, 44, 45, AND 46

REPORT BY COMMISSION

House bill.—The House bill requires the Commission to submit a final report not later than January 1, 1979.

Senate amendment.—The Senate amendment requires the Commission to submit an interim report, not later than March 31, 1978, with respect to its findings on its examination of the feasibility and advisability of developing Federal minimum benefit standards.

Conference agreement.—The conference agreement requires the Commission to submit a general interim report not later than March 31, 1978.

SENATE AMENDMENT NUMBERED 47

REFERRAL OF BLIND AND DISABLED CHILDREN RECEIVING SSI BENEFITS FOR
APPROPRIATE REHABILITATION SERVICES

House bill.—No provision.

Senate amendment.—The Senate amendment, which is generally similar to section 4 of H.R. 9811 as passed the House, rewrites section 1615 of the Social Security Act to make various changes with respect to the referral of blind and disabled children receiving SSI benefits for appropriate rehabilitation services.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 48

INCOME OF EACH MEMBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY
IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN
INSTITUTION

House bill.—No provision.

Senate amendment.—The Senate amendment, which is the same as a portion of Section 15 of H.R. 8911 as passed the House, amends section 1611(e) (1) (B) (ii) of the Social Security Act with respect to the treatment of the income of a married couple when one of them is in an institution.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 49

PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO
BE ELIGIBLE FOR SSI BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES
IN SOCIAL SECURITY BENEFITS

House bill.—No provision.

Senate amendment.—The Senate amendment contained provisions designed to prevent SSI recipients from losing Medicaid eligibility because of future cost-of-living increases in social security benefits.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 50

STATE SUPPLEMENTATION OF BENEFITS UNDER SSI PROGRAM

House bill.—No provision.

Senate amendment.—The Senate amendment modifies section 401(a) (2) of the Social Security Amendments of 1972 to provide that payments made under the savings clause provision would no longer be reduced when Federal SSI benefits increase.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 51

ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS

House bill.—No provision.

Senate amendment.—The Senate amendment, which is generally similar to section 17 of H.R. 8911 as passed the House, amends sections 1611, 1612, and 1616 of the Social Security Act, with respect to the eligibility of individuals in certain institutions for SSI benefits.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 52

ASSISTANCE PROGRAMS IN THE NORTHERN MARIANAS

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the extension of SSI and the Prouty amendment (section 228 of the Social Security Act), as provided for in Public Law 94-241, to the Northern Marianas. It also includes funds to extend the programs of aid to the aged, blind, and disabled to the Marianas on the same basis as those programs are operated in Guam, Puerto Rico, and the Virgin Islands.

Conference agreement.—The conference agreement omits the Senate amendment.

SENATE AMENDMENT NUMBERED 53

METHOD OF PAYMENT BY STATE AND LOCAL GOVERNMENTS

House bill.—Under the House bill the State may elect to have governmental units finance unemployment benefits payable on the basis of service performed in their employ either on a reimbursement method or a contributory method.

Senate amendment.—The Senate amendment allows the governmental units to select the method under which unemployment compensation benefits payable on the basis of services performed in their employ will be financed.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 54

AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION

House bill.—No provision.

Senate amendment.—The Senate amendment, which is the same as H.R. 13272 as passed the House, amends section 407 of the Social Security Act to make certain changes in the requirements imposed under the AFDC program on a family headed by an unemployed father.

Conference agreement.—The amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 55

STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION
OF AFDC AND CHILD SUPPORT PROGRAMS

House bill.—No provision.

Senate amendment.—The Senate amendment requires State employment offices to supply certain information to the appropriate State agencies to aid in the administration of the AFDC and child support programs under title IV of the Social Security Act.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 56

AMENDMENTS TO THE SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM

Extension of Special Unemployment Assistance Program

House bill.—No provision.

Senate amendment.—The Senate amendment extends the special unemployment assistance program for an additional year. Under existing law, the special unemployment assistance program terminates on December 31, 1976, except that individuals eligible to receive assistance before December 31, 1976, may continue to receive assistance until March 31, 1977. The Senate amendment extends the termination date to December 31, 1977, and phase-out date to June 30, 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

*Elimination of Special Base Period for Payments of Special
Unemployment Assistance*

House bill.—No provision.

Senate amendment.—The Senate amendment changes the base period which is used for determining an individual's eligibility for special unemployment assistance. Under existing law, the base period is the 52-week period preceding the first week with respect to which the individual files a claim for assistance under the program. The Senate amendment changes the base period to correspond with the base period which is used under the regular State unemployment compensation program. The Senate amendment applies with respect to benefit years beginning after December 31, 1976. The Senate amendment also contains a provision to prevent the double counting of wage credits which might occur as a result of the change in the definition of base period.

Conference agreement.—The conference agreement follows the Senate amendment.

*Denial of Special Unemployment Assistance to Non-Professional
Employees of Educational Institutions During Periods Between
Academic Terms*

House bill.—No provision.

Senate amendment.—The Senate amendment provides that individuals who perform services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) will not be eligible to receive assistance under the program with respect to any week commencing during a period between two successive academic years (or for a similar period between two regular but not successive terms) if the individual performs such services in the first of such academic years or terms and there is notification of reasonable assurance that the individual will perform such services in the second of such academic years or terms. The Senate amendment applies to weeks of unemployment beginning after the date of the enactment of the bill.

Conference agreement.—The conference agreement follows the Senate amendment with minor changes. The provision in the Senate amendment for retroactive payment of compensation under certain conditions was not retained.

Reimbursement for Unemployment Benefits Paid to Public Employees Covered by Regular Unemployment Compensation

House bill.—No provision.

Senate amendment.—The Senate amendment provides for payments to States of an amount equal to all regular and extended compensation paid for weeks beginning on or after January 1, 1977, and before June 30, 1978, to the extent that such compensation is attributable to employment by a State or local government.

Conference agreement.—The conference agreement omits the Senate amendment.

Modification of Agreements to Special Unemployment Assistance Program

House bill.—No provision.

Senate amendment.—The Senate amendment provides that the Secretary of Labor will modify his agreement with each State under the special unemployment assistance program so that payments of assistance under such program will be made in accordance with the amendments made by the bill.

Conference agreement.—The conference agreement follows the Senate amendment.

APPENDIX ON AMENDMENTS NUMBERED 47, 48, 49, 50,
51, 54, AND 55

In the accompanying conference report, Senate amendments numbered 47, 48, 49, 50, 51, 54, and 55 are reported in technical disagreement. Each of these amendments will be offered in the House of Representatives and the Senate. A description of each amendment follows, along with the text of the amendment as agreed to by the conferees.

SENATE AMENDMENT NUMBERED 47

REFERRAL OF BLIND AND DISABLED CHILDREN RECEIVING SSI BENEFITS
FOR APPROPRIATE REHABILITATION SERVICES

House bill.—No provision.

Senate amendment.—The Senate amendment requires the Social Security Administration to refer blind and disabled children under age 16 who are receiving SSI benefits to the crippled children's or other appropriate State agency designated by the Governor. This agency would be responsible for administering a State plan which would have to include provision for counseling of disabled children and their families; the establishment of individual service plans for children under 16; monitoring to assure adherence to the plans; and provision of services to children under age 7, and to children who have never been in school and require preparation to take advantage of public educational services.

A total of \$30 million would be provided for the operation of State plans for each of three fiscal years, beginning with fiscal year 1977; there would be no non-Federal matching requirements. The amount would be allocated to the States on the basis of the number of children age 6 and under in each State. Up to 10 percent of the State's funds could be used for counseling, referral and monitoring provided under the State plan for children up to age 16. The remainder of the funding would be available for services to disabled children under age 7 and those who have never been in school. Acceptance of services provided would be a condition of eligibility for SSI benefits. The amendment would require that the funds authorized under the provision could not be used to replace State and local funds now being used for these purposes. The funds could be used in the case of any program or service only to pay that portion of the cost which is related to the additional requirements of serving disabled children over and above what would be required to serve nondisabled children.

The Senate amendment requires the Secretary of HEW to publish criteria to be used in determining disability for children under age 18 within 120 days after enactment of the provision.

Conference action.—This amendment was agreed to by the conferees with minor modifications, as follows:

SEC. 501. REFERRAL OF BLIND AND DISABLED INDIVIDUALS UNDER AGE 16, WHO ARE RECEIVING BENEFITS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM, FOR APPROPRIATE REHABILITATION SERVICES.

(a) *IN GENERAL.*—Section 1615 of the Social Security Act is amended to read as follows:

"REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"SEC. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title,
the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for voca-

tional rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

"(b) (1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

"(A) assuring appropriate counseling for disabled children referred pursuant to subsection (a) and their families,

"(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

"(C) monitoring to assure adherence to such service plans, and

"(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(2) Such criteria shall include—

"(A) administration—

"(i) by the agency administering the State plan for crippled children's services under title V of this Act, or

"(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

"(B) coordination with other agencies serving disabled children; and

"(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

"(c) Every individual age 16 or over with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which he is referred under subsection (a).

"(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act the cost incurred under such plan in the provision of rehabilitation services to individuals referred for such services pursuant to subsection (a).

"(e) (1) *The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (b) of this section, the costs incurred each fiscal year which begins after September 30, 1976, and ends prior to October 1, 1979, in carrying out the State plan approved pursuant to such subsection (b).*

"(2) (A) *Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 per centum thereof shall be paid with respect to costs incurred with respect to activities described in subsection (b) (1) (A), (B), and (C).*

"(B) *Whenever there are provided pursuant to this section to any child services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded, for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.*

"(C) *The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of the type involved for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.*

"(3) *No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to \$30,000,000 as the under age 7 population of such State (and for purposes of this section the District of Columbia shall be regarded as a State) bears to the under age 7 population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year."*

(b) *PUBLICATION OF CRITERIA.—The Secretary shall, within 120 days after the enactment of this subsection, publish criteria to be employed to determine disability (as defined in section 1614(a) (3) of the Social Security Act) in the case of persons who have not attained the age of 18.*

The amendment differs from the Senate amendment in one respect. Under the Senate amendment, children under 16 referred for services would be required to accept the services (except with good cause) or lose their eligibility for such benefits. The amendment as agreed to by the conferees does not have such an eligibility requirement for children under 16.

With respect to services for children ages 7 to 16, the conferees note that the amendment as agreed to makes no change in the present law provision of open-ended Federal funding of vocational rehabilitation services provided by the State vocational rehabilitation agency for disabled children as well as adults receiving supplemental security income benefits.

SENATE AMENDMENT NUMBERED 48

INCOME OF EACH MEMBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN INSTITUTION

House bill.—No provision.

Senate amendment.—Under the Senate amendment, when a spouse who is a member of an eligible SSI couple enters a medical institution or nursing home, the two are treated as individuals rather than as a couple for purposes of applying their separate incomes in computing any required reduction of the SSI benefit amount.

Conference action.—This amendment was agreed to by the Conferees without change, as follows:

SEC. 502. INCOME OF EACH MEMEBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN INSTITUTION.

Section 1611(e) (1) (B) (ii) of the Social Security Act is amended to read as follows:

“(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month, at a rate not in excess of the sum of—

“(I) the rate of \$300 per year (reduced by the amount of any income, not excluded pursuant to section 1621(b), of the one who is in such hospital, home, or facility), and

“(II) the applicable rate specified in subsection (b) (1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and”.

SENATE AMENDMENT NUMBERED 49

PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO BE ELIGIBLE FOR SSI BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS

House bill.—No provision.

Senate amendment.—Under the Senate amendment, SSI recipients would be prevented from losing Medicaid eligibility solely because of future cost-of-living increases in social security benefits.

Conference action.—This amendment was agreed to by the Conferees without change, as follows:

SEC. 503. PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO BE ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS.

In addition to other requirements imposed by law as a condition for the approval of any State plan under title XIX of the Social Security Act, there is hereby imposed the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual, for any month after June 1977 for which such individual is entitled to a monthly insurance benefit

*under title II of such Act but is not eligible for benefits under title XVI of such Act, in like manner and subject to the same terms and conditions as are applicable under such State plan in the case of individuals who are eligible for and receiving benefits under such title XVI for such month, if for such month such individual would be (or could become) eligible for benefits under such title XVI except for amounts of income received by such individual and his spouse (if any) which are attributable to increases in the level of monthly insurance benefits payable under title II of such Act which have occurred pursuant to section 215(i) of such Act, in the case of such individual, since the last month after April 1977 for which such individual was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II, and, in the case of such individual's spouse (if any), since the last such month for which such spouse was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II. Solely for purposes of this section, payments of the type described in section 1616(a) of the Social Security Act or of the type described in section 212(a) of Public Law 93-66 shall be deemed to be benefits under title XVI of the Social Security * * *.*

SENATE AMENDMENT NUMBERED 50

STATE SUPPLEMENTATION OF BENEFITS UNDER SSI PROGRAM

House bill.—No provision.

Senate amendment.—Under the Senate amendment, States receiving Federal hold-harmless funds will no longer have the amount of such funds reduced when a cost-of-living increase in SSI benefits becomes effective. Such States would thus be permitted to pass along the increase in Federal SSI benefits to the recipient without additional State costs.

Conference action.—The amendment was agreed to by the conferees with one modification, as follows:

SEC. 504. STATE SUPPLEMENTATION OF BENEFITS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) *LIMITATION ON STATE COSTS.*—Section 401(a)(2) of the Social Security Amendments of 1972 is amended—

(1) by inserting “(subject to the second sentence of this paragraph)” immediately after “Act” where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: “In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increases in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977, and before July 1, 1979.”.

(b) *EFFECTIVE DATE.*—The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

The amendment as agreed to by the conferees limits the effect of the provision to the cost-of-living increases which will occur in 1977 and 1978.

SENATE AMENDMENT NUMBERED 51

ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS

House bill.—No provision.

Senate amendment.—The Senate amendment would exclude publicly operated community residences which serve no more than 16 residents from being deemed public institutions in which individuals are ineligible for SSI benefits. It would also provide that Federal SSI payments would not be reduced in the case of assistance to an individual or an institution based on need which is provided by States and localities. It would repeal section 1616(e) of the Social Security Act effective October 1, 1976 which provides that Federal SSI payments be reduced in the case of payments made by states or localities for medical or any other type of remedial care provided by an institution which could be provided under medicaid. It would add a requirement effective October 1, 1977, that each State establish or designate State or local authorities to establish, maintain and insure the enforcement of standards for categories of institutions in which a significant number of SSI recipients are residing. The standards would have to be appropriate to the needs of the recipients and the character of the facilities involved. They would govern admission policies, safety, sanitation and protection of civil rights.

The Senate amendment would also require each State to make available for public review, as a part of its social services program planning procedures under title XX, a summary of the standards and the procedures available in the State to insure their enforcement. There would have to be made available a list of any waivers of standards which have been made and any violations of standards which have come to the attention of the enforcement authority. Federal payments would be reduced dollar for dollar by any State supplementation in the case of persons who are in group facilities which are not approved under State standards as determined by the appropriate State or local authorities.

Conference action.—This amendment was agreed to by the conferees without substantive change, as follows:

SEC. 505. ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS.

(a) *IN GENERAL.*—Section 1611(e)(1) of the Social Security Act is amended by striking out “subparagraph (B)” in subparagraph (A) and inserting in lieu thereof “subparagraphs (B) and (C)”; and by adding at the end thereof the following new subparagraph:

“(C) As used in subparagraph (A), the term ‘public institution’ does not include a publicly operated community residence which serves no more than 16 residents.”.

(b) *CONFORMING AMENDMENT.*—Section 1612(b)(6) of such Act is amended by striking out “assistance described in section 1616(a) which” and inserting in lieu thereof “assistance, furnished to or on behalf of such individual (and spouse), which”.

(c) *REPEAL OF LIMITATION ON PAYMENT.*—Section 1616(e) of such Act is repealed.

(d) *STATES TO ESTABLISH STANDARDS.*—Effective October 1, 1977, section 1616(e) of such Act is amended by adding after subsection (d) the following new subsection:

“(e) (1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

“(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 2004 of this Act, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

“(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection.

“(4) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution of the type described in paragraph (1) to such individual as a resident or an inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities.”.

(e) *EFFECTIVE DATE.*—The amendments and repeals made by this section, unless otherwise specified therein, shall take effect on October 1, 1976.

SENATE AMENDMENT NUMBERED 54

AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION

House bill.—No provision.

Senate amendment.—The Senate amendment would require unemployed fathers who apply for aid to families with dependent children—unemployed fathers (AFDC-UF) to collect any unemployment compensation (UC) to which they are entitled before they can receive any AFDC-UF benefits for which they might qualify. In those cases where an individual collecting unemployment compensation meets the State AFDC-UF eligibility requirements, the State would be required to supplement UC benefits up to AFDC-UF benefit levels. The amendment also authorizes the Secretaries of Labor and Health, Education, and Welfare, to enter into agreements with States which

are able and willing to do so under which the States will obtain a single registration for work to meet the requirements of both the Work Incentive Program and the Unemployment Compensation Program.

Conference action.—This amendment was agreed to by the conferees without change, as follows:

SEC. 508. AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION.

(a) *IN GENERAL.*—Section 407(b)(2) of the Social Security Act is amended—

- (1) by striking out “and” at the end of subparagraph (B); and
- (2) by striking out paragraph (C) and inserting in lieu thereof the following:

“(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

“(i) if and for so long as such child’s father, unless exempt under section 402(a)(19)(A), is not registered pursuant to such section for the work incentive program established under part C of this title, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 432(a), is not registered with the public employment offices in the State, and

“(ii) with respect to any week for which such child’s father qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and

“(D) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child’s father receives under an unemployment compensation law of a State or of the United States.”.

(b) *CONFORMING PROVISION.*—Section 407(d)(3) of such Act is amended by inserting “, for purposes of section 407(b)(1)(C),” before “be deemed”.

(c) *EFFECTIVE DATE.*—The amendments made by the preceding provisions of this section shall be effective with respect to months after (and weeks beginning in months after) the date of the enactment of this Act.

(d) *SIMPLIFICATION OF PROCEDURES.*—Section 407 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

“(e) The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed fathers and other unemployed persons in such State in registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title and in registering with public employment offices (under this section and otherwise) or in connection with applications

for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both the work incentive program and the applicable unemployment compensation laws.”.

SENATE AMENDMENT NUMBERED 55

STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PROGRAMS

House bill.—No provision.

Senate amendment.—Under the Senate amendment, State employment offices would be required to furnish information in their files regarding any individual at the request of a State or local AFDC or child support agency. The information to be provided will include: (1) whether such individual is receiving, has received or has made application for, unemployment compensation, and the amount of any such compensation, (2) the current home address, (3) whether such individual has refused an offer of employment, and (4) such other matters as may be relevant to the discharge of the welfare or child support agency's duties insofar as such duties relate to the individual or any member of his family. The State employment offices would be reimbursed by the welfare or child support agencies for the cost of supplying this information.

Conference action.—This amendment was agreed to by the conferees with one modification, as follows:

SEC. 509. STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PROGRAMS.

(a) *IN GENERAL.*—Section 3(a) of the Act entitled “An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes”, approved June 6, 1933 (29 U.S.C. 49b(a)), is amended by adding at the end thereof the following new sentence: “It shall be the further duty of the bureau to assure that such employment offices in each State, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is hereby authorized to) furnish to such agency making the request, from any data contained in the files of any such employment office, information with respect to any individual specified in the request as to (A) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (B) the current (or most recent) home address of such individual, and (C) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and terms, conditions, and rate of pay therefor.”.

(b) *PROVISION FOR REIMBURSEMENT OF EXPENSES.*—For purposes of section 403 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices pursuant to the third sentence of section 3 (a) of the Act entitled “An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes”, approved June 6, 1933 (29 U.S.C. 49b (a)), by a State or local agency administering a State plan approved under part A of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan; and for purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information so requested by a State or local agency charged with the duty of carrying out a State plan for child support approved under part D of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan.

The amendment as agreed to by the conferees differs in a single respect from the Senate amendment—it omits the fourth category of information to be provided by State employment offices (“such other matters as may be relevant to the discharge of the welfare or child support agency’s duties . . .”).

AL ULLMAN,
JAMES A. BURKE,
JAMES C. CORMAN,
CHARLES B. RANGEL,
WILLIAM A. STEIGER,
BILL FRENZEL,

Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
GAYLORD NELSON,
WILLIAM D. HATHAWAY,
CARL T. CURTIS,
PAUL FANNIN,
CLIFFORD HANSEN,
JACOB K. JAVITS,

Managers on the Part of the Senate.



Public Law 94-569 (H.R. 7228),
October 20, 1976, An Act to
amend the IRC of 1954 to
provide an extension of certain
provisions relating to members
of the Armed Forces missing in
action.

Public Law 94-569
94th Congress

An Act

To amend the Internal Revenue Code of 1954 to permit the authorization of means other than stamp on containers of distilled spirits as evidence of tax payment, to provide an extension of certain provisions relating to members of the Armed Forces missing in action, and for other purposes.

Oct. 20, 1976

[H.R. 7228]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5205(h) of the Internal Revenue Code of 1954 (relating to form of stamps for containers of distilled spirits) is amended by striking out "or other form of stamp" and inserting in lieu thereof "other form of stamp, or other device".

Taxes.

Distilled spirits,
use of stamps on
containers.

26 USC 5205.

SEC. 2. Section 6801(b) of the Internal Revenue Code of 1954 (relating to authority for establishment, alteration, and distribution of stamps) is amended by striking out the period at the end thereof and inserting in lieu thereof "; except that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary, under such controls for the protection of the revenue as shall be deemed necessary."

26 USC 6801.

26 USC 5205,
5235.

SEC. 3. (a) SURVIVING SPOUSE.—Section 2(a)(3)(B) of the Internal Revenue Code of 1954 (relating to the special rule where a deceased spouse was in a missing status) is amended to read as follows:

26 USC 2.

"(B) the date which is—

"(i) January 2, 1978, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(ii) 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in clause (i)."

26 USC 112.

(b) CERTAIN PAY OF MEMBERS OF THE ARMED FORCES HOSPITALIZED AS A RESULT OF THE VIETNAM CONFLICT.—The last sentence of section 112(a) of such Code (relating to certain combat pay of enlisted members of the Armed Forces) and the last sentence of section 112(b) of such Code (relating to certain combat pay of commissioned officers of the armed forces) are each amended by striking out "beginning more than 2 years after the date of the enactment of this sentence" and inserting in lieu thereof "after January 1978".

(c) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH IN MISSING STATUS.—The second sentence of section 692(b) of such Code (relating to income taxes of members of the armed forces on death in a missing status) is amended to read as follows: "The preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning—

26 USC 692.

"(1) after January 2, 1978, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1)."

(d) JOINT RETURN WHERE INDIVIDUAL IS IN MISSING STATUS AS A RESULT OF VIETNAM CONFLICT.—The last sentence of section 6013(f)

26 USC 6013. (1) of such Code (relating to joint returns where individual is in missing status as a result of the Vietnam conflict) is amended by striking out "more than 2 years after the date of the enactment of this sentence" and inserting in lieu thereof "after January 2, 1978".

26 USC 7508. (e) TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF VIETNAM CONFLICT.—The second sentence of section 7508(b) of such Code (relating to the application to a spouse of provision relating to the time for performing certain acts postponed by reason of war) is amended to read as follows: "The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning—

"(1) after January 2, 1978, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

26 USC 112. "(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1)."

SEC. 4. AUTHORIZATION OF INITIAL PAYMENTS TO PRESUMPTIVELY BLIND INDIVIDUALS.

42 USC 1383. (a) IN GENERAL.—Section 1631(a)(4)(B) of the Social Security Act is amended—

(1) by inserting "or blindness" immediately after "disability" each time it appears; and

(2) by inserting "or blind" immediately after "disabled" each time it appears.

42 USC 1383 note. (b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to months after the month following the month in which this Act is enacted.

42 USC 1382b. SEC. 5. Section 1613(a)(1) of the Social Security Act is amended by striking out " , to the extent that its value does not exceed such amount as the Secretary determines to be reasonable".

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1071 (Comm. on Ways and Means).

SENATE REPORT No. 94-1319 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 13, considered and passed House.

Oct. 1, considered and passed Senate, amended; House agreed to certain Senate amendments and to one amendment with an amendment; Senate agreed to House amendment.

Note.—A change has been made in the slip law format to provide for one-time preparation of copy to be used for publication of both slip laws and the United States Statutes at Large volumes. Comments from users are invited by the Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

Report of the Committee on
Finance, to accompany
H.R. 7228, Senate Report
No. 94-1319.

INTERNAL REVENUE CODE OF 1954
P.L. 94-569

**INTERNAL REVENUE CODE OF 1954—DISTILLED
SPIRITS STAMPS**

P.L. 94-569, see page 90 Stat. 2699

**House Report (Ways and Means Committee) No. 94-1071,
Apr. 29, 1976 [To accompany H.R. 7228]**

**Senate Report (Finance Committee) No. 94-1319,
Sept. 28, 1976 [To accompany H.R. 7228]**

Cong. Record Vol. 122 (1976)

DATES OF CONSIDERATION AND PASSAGE

House May 13, October 1, 1976

Senate October 1, 1976

The Senate Report is set out.

SENATE REPORT NO. 94-1319

[page 1]

The Committee on Finance, to which was referred the bill (H.R. 7228) to amend the Internal Revenue Code of 1954 to permit the authorization of means other than stamps on containers of distilled spirits as evidence of tax payment, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

I. SUMMARY

The House-passed bill (H.R. 7228) relates to the means used as evidence of tax payment for containers of distilled spirits. Under present law, containers of distilled spirits must have a stamp as evidence of the payment of the Federal excise tax. The bill permits the Treasury Department to authorize the use of means other than stamps as evidence of this tax payment. The bill also allows the Secretary of the Treasury to authorize persons outside the Treasury Department to prepare and distribute the stamps or other devices that may be used, which is to be done only under such controls as are necessary to protect Federal revenues.

The committee agreed to the House passed bill and added an amendment dealing with the special tax provisions relating to members of the Armed Forces and others involved in the Vietnam conflict. The amendment extends for one year (to January 2, 1978) the tax relief to members of the Armed Forces of the United States (and their spouses) and civilian employees who are missing in action or hospital-

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ized as a result of wounds, disease, or injury incurred in the Vietnam conflict.

LEGISLATIVE HISTORY

P.L. 94-569

II. GENERAL STATEMENT

A. EVIDENCE OF TAX PAYMENT ON DISTILLED SPIRITS CONTAINERS

Present law

Under present law, evidence of the payment of the Federal excise tax on distilled spirits is required to be demonstrated by attaching to the container what is commonly known as a "strip stamp." This is a paper stamp that is attached to the container in such a manner that it will be broken (thereby voiding it) upon opening the container. (See especially secs. 5205 and 5235 of the Internal Revenue Code of 1954.) Present law (sec. 6801) restricts the preparation and distribution of the strip stamps to the Treasury Department. The stamps are now made by the Bureau of Engraving and Printing.

Reasons for change

Recent developments in the technology of bottle and container closures indicates that it may become simpler for distillers and less costly to the Federal Government in the future to use devices other than paper stamps as evidence of payment of the excise tax on distilled spirits. For example, the evidence of this tax payment might be printed on a metallic strip used to form the closure on a bottle; this strip also would be broken and thereby voided when the bottle is opened. The printing costs are to be borne by the parties who are authorized to print such stamps.

If the Treasury Department considers using means or devices other than a paper stamp as evidence of the tax payment, there may be a problem in providing the other means or devices. The paper stamps now are provided by the Bureau of Engraving and Printing, which is geared to printing on paper. That Bureau and other agencies of the Federal Government are not now equipped to process other materials for use as evidence of tax payment.

In order to permit the Treasury Department to take advantage of modern technology, and to reduce its manufacturing and administrative costs, the committee has approved this bill, which authorizes the use of "other devices" as well as tax stamps and which, with safeguards, authorizes the Treasury to have such devices prepared and distributed by private parties.

Explanation of provision

The bill authorizes the Treasury Department to use devices other than stamps as evidence of tax payment on containers of distilled spirits. The committee understands that consideration may be given to the use of metallic strips as an authorized device, with the strips being embossed with, or having printed or lithographed on them, the appropriate legend certifying to their use as tax stamps.

Because the Federal Government's agencies do not possess facilities for processing metallic strips or other nonpaper strips, the Secretary is given authority, in section 2 of the bill, to authorize other persons to prepare and distribute metallic and other nonpaper stamp strips. In practice, authorization to prepare the strips might be given to dis-

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tillers, container manufacturers, or other manufacturers of the strips. The committee bill requires the Secretary to impose whatever controls

INTERNAL REVENUE CODE OF 1954

P.L. 94-569

he believes are necessary to assure that the Federal revenues are protected. This requirement means that the authorized printers of non-paper stamps must establish the kind of controls needed to assure that the tax is paid for each stamp that is used.

The importance of such controls may be gathered from the fact that upwards of \$1 billion are expected to be received from the tax on distilled spirits during fiscal year 1977.

In order to afford an opportunity for Congressional review of any system of private production of stamps or other devices, the Treasury Department should not put into effect any agreement for such private production until the Department has given the committee at least 90 days to examine the system of controls to be used.

B. EXTENSION OF TAX BENEFITS OF MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES WHO ARE MISSING IN ACTION OR HOSPITALIZED AS A RESULT OF THE VIETNAM CONFLICT

Present law

Under present law, members of the Armed Forces of the United States and civilian employees who are missing in action or remain hospitalized as a result of wounds, disease, or injury incurred in the Vietnam conflict are entitled to certain tax relief which generally will expire with respect to taxable years beginning after January 2, 1977.

Under section 112 of the code, members of the Armed Forces may exclude from income compensation received for each month any part of which is spent hospitalized as a result of wounds, disease, or injury incurred in combat. Generally, these benefits run for two years after the formal cessation of hostilities, that is for two years after the date designated under section 112 as the date of termination of combatant activities. Public Law 93-597, enacted on January 2, 1975, extended the latest date for qualification for the exclusion provided by section 112 in cases relating to the Vietnam conflict through months beginning on or before January 2, 1977.

Present law (sec. 692 of the Code) also forgives any taxes otherwise due for a taxable year during which a member of the Armed Forces dies while on active duty in a combat zone or for any prior taxable year which ends after the member first served in a combat zone. In the case of members missing in the Vietnam conflict, the tax forgiveness provision will not apply to any taxable year beginning after January 2, 1977.

In addition, certain widows and widowers are eligible for special tax rates as a surviving spouse for the two taxable years following the year in which the other spouse died. In the case of spouses missing in the Vietnam conflict, the survivor may elect (under sec. 2 of the code) the special rates for two years from the earlier of the date of the determination of death, or January 2, 1977. This allows the surviving spouse of an individual missing in Vietnam to elect the favorable "surviving spouse" rates for two taxable years after January 2, 1977.

Several provisions also affect the election to file a joint return by a spouse of a missing member. Under section 6013 the spouse of a member

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missing as a result of the Vietnam conflict cannot elect to file a joint return for a taxable year beginning after January 2, 1977. The spouse

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of a missing individual is also granted extensions (under sec. 7508 of the code) for certain tax obligations and tax administrative actions for taxable years beginning before January 2, 1977. For that period the Internal Revenue Service is to disregard whether required tax returns were filed, payments made, petitions and credit or refund claims filed, etc., within the time prescribed by statute.

Reasons for change

Since the enactment of the 1975 legislation, the Department of Defense has been unable to conduct status reviews of persons missing in action because of unanticipated events. Between 1973 and March, 1974, the Department was judicially enjoined from making such reviews. In March 1974, the Federal District Court (Southern District of New York) stated that status reviews could be resumed if the Department adopted procedural safeguards including notification of intention to review, providing an opportunity for primary next of kin to attend the hearing with legal counsel, and providing reasonable access to information used at the hearings.¹

Following that decree, the military again began status reviews. These reviews were again suspended by agreement between the Department of Defense and the House Select Committee on Missing Persons in Southeast Asia until late 1976 or early 1977 when the Committee will submit its report to the House. Thus, no status reviews will be resumed on the remaining cases until 1977. The committee has been informed that a one-year extension of the tax benefits should allow the military sufficient time to complete reviewing the status of open cases.

Explanation of provision

The bill generally extends the termination date for the special tax treatment for certain individuals missing in action or remaining hospitalized as a result of the Vietnam conflict for one year through taxable years beginning on or before January 2, 1978.

Specifically, the bill would allow members of the Armed Forces to exclude from gross income compensation received for any month during any part of which the member was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone in the Vietnam conflict. Enlisted personnel may exclude all such compensation; commissioned officers may exclude up to \$500 of such compensation per month. These exclusions would apply through January 1978.

The bill would also extend from January 2, 1977, to January 2, 1978, the date after which the income tax forgiveness for the taxable year in which a member of the Armed Forces dies (or is determined to have died) as a result of combat in the Vietnam conflict, will no longer be allowed.

Also, the spouse of a person missing as a result of service in a combat zone in the Vietnam conflict would be allowed to elect to file a joint return until taxable years beginning after January 2, 1978, and would

¹ *McDonald v. Lucas*, 371 F. Supp. 831 (1974); 371 F. Supp. 837 (1974); *aff'd*; 95 Sup. Ct. 297 (1974).

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be entitled to file as a surviving spouse for two taxable years beginning after January 2, 1978.

Effective date.—This provision will become effective on the date of enactment.

Public Law 94-585 (H.R. 13500),
October 21, 1976, An Act to
amend the Social Security Act
with respect to food stamp
purchases by welfare recipients.



Public Law 94-585
94th Congress

An Act

To amend the Social Security Act with respect to food stamp purchases by welfare recipients.

Oct. 21, 1976

[H.R. 13500]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Food stamps.

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

That (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

“FOOD STAMP DISTRIBUTION

“SEC. 410. (a) Any State plan for aid and services to needy families with children may (but is not required under this title or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid.

42 USC 610.

“(b) Any deduction made pursuant to an option provided in accordance with subsection (a) shall not be considered to be a payment described in section 406(b)(2).

7 USC 2011
note.

“(c) Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this part) of such State, to institute or carry out a procedure, described in subsection (a).”.

42 USC 606.

(b) Administrative costs incurred by a State plan for aid and services to needy families with children, approved under Part A of title IV of the Social Security Act, in conducting procedures (described in section 410 of such Act, as added by subsection (a) of this section) in connection with the food stamp program shall be paid from funds appropriated to carry out the Food Stamp Act of 1964, as amended.

42 USC 610 note.

42 USC 601.

SEC. 2. (a) Title XVI of the Social Security Act is amended by adding immediately after section 1617 the following new section:

“OPERATION OF STATE SUPPLEMENTATION PROGRAMS

“SEC. 1618. (a) In order for any State which makes supplementary payments of the type described in section 1616(a) (including pay-

42 USC 1382g.

42 USC 1382e.

87 Stat. 155.
42 USC 1396.

ments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), on or after June 30, 1977, to be eligible for payments pursuant to title XIX with respect to expenditures for any calendar quarter which begins—

“(1) after June 30, 1977, or, if later,

“(2) after the calendar quarter in which it first makes such supplementary payments,
such State must have in effect an agreement with the Secretary whereby the State will—

“(3) continue to make such supplementary payments, and

“(4) maintain such supplementary payments at levels which are not lower than the levels of such payments in effect in December 1976, or, if no such payments were made in that month, the levels for the first subsequent month in which such payments were made.

“(b) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for a particular month or months if the State's expenditures for such payments in the twelve-month period (within which such month or months fall) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1617 are not less than its expenditures for such payments in the preceding twelve-month period.”

42 USC 1382f.

42 USC 1382e
note.

(b) Section 401(a) (2) of the Social Security Amendments of 1972 is amended—

(1) by inserting “(subject to the second sentence of this paragraph)” immediately after “Act” where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: “In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977.”

(c) The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

Effective date.
42 USC 1382g
note.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1210 (Comm. on Ways and Means).

SENATE REPORT No. 94-1345 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 8, considered and passed House.

Oct. 1, considered and passed Senate, amended; House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 44:

Oct. 22, Presidential statement.

Report of the Committee on
Finance, to accompany
H.R. 13500, Senate Report
No. 94-1345.

LEGISLATIVE HISTORY

P.L. 94-585

SOCIAL SECURITY ACT—FOOD STAMPS

P.L. 94-585, see page 90 Stat. 2901

House Report (Ways and Means Committee) No. 94-1210,
June 2, 1976 [To accompany H.R. 13500]

Senate Report (Finance Committee) No. 94-1345,
Sept. 29, 1976 [To accompany H.R. 13500]

Cong. Record Vol. 122 (1976)

DATES OF CONSIDERATION AND PASSAGE

House June 8, October 1, 1976

Senate October 1, 1976

The Senate Report is set out.

SENATE REPORT NO. 94-1345

[page 1]

The Committee on Finance, to which was referred the bill (H.R. 13500) to amend the Internal Revenue Code of 1954 with respect to influencing legislation by public charities, having considered the same, reports favorably thereon with an amendment and with an amendment to the title and recommends that the bill (as amended) do pass.

House bill.—As passed by the House, H.R. 13500 provided a new elective set of requirements for determining whether a charitable organization has engaged in excessive lobbying activities sufficient to cause it to lose its exemption and qualification for receiving deductible contributions. The substance of the bill has already been enacted by the Congress as part of H.R. 10612, the Tax Reform Act of 1976.

Committee bill.—The committee bill strikes out all after the enacting clause and instead substitutes an amendment dealing with food stamp purchases by welfare recipients.

Under a provision of Public Law 93-86, State welfare agencies were mandated to withhold, at the option of the recipient, the amount of the AFDC grant needed to purchase the recipient's food stamp allotment and to distribute the food stamp coupon allotment along with the reduced cash grant (usually by mail). The committee bill would add a provision to title IV-A of the Social Security Act to give the States the option of using this procedure instead of requiring it.

II. GENERAL EXPLANATION OF THE BILL

In response to problems encountered by some States in implementing the mandatory requirement for Public Assistance Withholding (PAW) procedures, Public Law 94-182 allowed the Federal Government to make PAW procedures optional with each State until October 1, 1976. This action was taken in the expectation that major food

FOOD STAMPS

P.L. 94-585

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stamp legislation (including permanent provisions for PAW procedures at the option of the States) would be acted on before the October 1 extended deadline.

Both the Senate-approved (S. 3136) and House Agriculture Committee (H.R. 13613) food stamp bills include provisions making PAW procedures permanently optional with the States. However, it appears unlikely that final action on these bills will come before the October 1 deadline.

Although many States do use PAW issuance procedures successfully, some States and localities have found the provisions extremely difficult to implement. There is a serious problem in the mail issuance of readily negotiable food stamp coupons in urban areas where the probability of mail loss is high. Major design problems are met in attempting to coordinate State-run AFDC systems with locally run or contracted-out food stamp issuance systems. Many States, even though they utilize computers, encounter the costly problem of computer incompatibility between the AFDC and food stamp systems. The heavy additional cost of establishing computer capability to implement withholding or computer compatibility is a financial burden with which a number of States find they cannot cope. There is, in addition, strong opposition in some States to requiring that PAW issuance procedures operate in all areas of the State, rather than in those areas where the State feels these procedures would be most appropriate.

A recent House Agriculture Committee survey of State and local welfare administrators noted that:

A State option to offer PAW was overwhelmingly favored by State administrators. A concern about the possibility of mail theft in all or some localities appeared frequently in [the State administrators'] responses. State administrators also observed that not all States share the capability of an integrated computer system for public assistance and food stamps, a capability said to be necessary for PAW implementation. The need to take into account other variances in administrative systems was also cited. The local administrators also favored a State option (41 percent). They expressed concern over mail theft and spoke of difficulties in implementation because there are two different agencies administering two different programs with resulting difficulty in coordination.

To date, only 23 States and one other jurisdiction have fully implemented PAW issuance procedures for food stamp coupons. Ten other States have implemented the procedures in some of the counties of the State. However, 17 States and three other jurisdictions have not implemented PAW issuance procedures. The following shows the breakdown by State.

States and jurisdictions with full implementation (24)

Alaska, Arizona, Arkansas, Delaware, Guam, Hawaii, Idaho, Iowa, Kansas, Kentucky, Mississippi, Montana, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Utah, Virginia, Washington, West Virginia, and Wyoming.

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States with partial implementation (10)

California, Colorado, Indiana, Maryland, Minnesota, New York, Tennessee, Texas, Vermont, and Wisconsin.

States and jurisdictions without implementation (20)

Alabama, Connecticut, the District of Columbia, Florida, Georgia, Illinois, Louisiana, Maine, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Pennsylvania, Puerto Rico, Rhode Island, and the Virgin Islands.

Under current law, the Agriculture Department will begin requiring that all States offer, statewide, PAW food stamp issuance procedures to AFDC recipients in October 1976. In view of the circumstances cited above, the committee believes that this requirement is unwarranted. The committee bill therefore would give States the option of offering PAW issuance procedures on a permanent basis. States could choose not to offer PAW procedures, offer them statewide, or offer them only in selected areas of the State. For those States choosing to offer PAW issuance procedures to AFDC recipients, the administrative cost of the procedures would continue to be governed by the Federal-State cost-sharing provisions of the Food Stamp Act, as amended.

The committee bill also provides that administrative costs incurred by States in conducting public assistance withholding procedures must be paid under the food stamp program.

III. BUDGETARY IMPACT OF H.R. 13500

The Finance Committee estimates that the enactment of H.R. 13500 with the amendments recommended by the committee would be consistent with the budgetary totals included in the second concurrent resolution on the budget for fiscal year 1977.

Giving States the option of using public assistance withholding procedures is estimated to result in a savings in AFDC administrative costs of \$3 million in fiscal year 1977 and in the four subsequent fiscal years. For purposes of indicating the relationship between this bill and the allocation by the committee of budget totals for fiscal year 1977 pursuant to section 302(b) of the Congressional Budget Act, the Committee on Finance estimates that there would be an overall net reduction in Federal budget authority and outlays, of an entitlement nature amounting to \$3 million.

IV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee on the motion to report the bill. The bill was ordered reported by voice vote.

* * * * *

APPENDIX

The following is a listing of the acts contained in the preceding volumes of this legislative history:

Volume I 74th-76th Congress

- Act of August 14, 1935 (Public, No. 271, 74th Congress; 49 Stat. 620). The Social Security Act.
- Act of August 10, 1939 (Public, No. 379, 76th Congress; 53 Stat. 1360). The Social Security Act Amendments of 1939.
- Act of August 11, 1939 (Public, No. 400, 76th Congress; 53 Stat. 1420) - providing for the noncollection of FICA tax on certain services rendered before January 1940.
- Act of August 13, 1940 (Public, No. 764, 76th Congress; 54 Stat. 785) - providing for more uniform coverage for certain persons employed in coal mining operations.

Volume II 78th-80th Congress

- Act of March 24, 1943 (Public Law 17, 78th Congress; 57 Stat. 45) - services of officers and members of crews employed by War Shipping Administration; maritime tax deduction.
- Act of February 25, 1944 (Public Law 235, 78th Congress; 58 Stat. 21). The Revenue Act of 1943.
- Act of April 4, 1944 (Public Law 285, 78th Congress; 53 Stat. 188) - clarifying provisions of Act of March 24, 1943.
- Act of October 23, 1945 (Public Law 201, 79th Congress; 59 Stat. 546) - services of employees of the Bonneville Power Administration.
- Act of December 29, 1945 (Public Law 291, 79th Congress; 59 Stat. 669). The International Organizations Immunities Act.
- Act of July 31, 1946 (Public Law 572, 79th Congress; 60 Stat. 722) - crediting railroad industry service under the Social Security Act.
- Act of August 8, 1946 (Public Law 671, 79th Congress; 60 Stat. 925) - employment for business vested in or transferred to Alien Property Custodian.

- Act of August 10, 1946 (Public Law 719, 79th Congress; 60 Stat. 978). The Social Security Act Amendments of 1946.
- Act of April 20, 1948 (Public Law 492, 80th Congress; 62 Stat. 195) - to exclude certain vendors of newspapers and magazines.
- Act of June 14, 1948 (Public Law 642, 80th Congress; 62 Stat. 438) - usual common-law rules applicable in determining employer-employee relationship.

Volume III 81st Congress

- Act of August 28, 1950 (Public Law 734, 81st Congress; 64 Stat. 477). The Social Security Act Amendments of 1950.
- Act of September 23, 1950 (Public Law 814, 81st Congress; 64 Stat. 906). The Revenue Act of 1950.

Volume IV 82nd-83rd Congress

- Act of July 12, 1951 (Public Law 78, 82d Congress; 65 Stat. 119) - exclusion of service performed by Mexican agricultural workers, admitted under Title V of the Agricultural Act of 1949.
- Act of October 30, 1951 (Public Law 234, 82d Congress; 65 Stat. 683) - interrelationship between RRA and SSA.
- Act of June 28, 1952 (Public Law 420, 82d Congress; 66 Stat. 285) - amending sec. 218(f) of the Act.
- Act of July 18, 1952 (Public Law 590, 82d Congress; 66 Stat. 767). The Social Security Act Amendments of 1952.
- Act of August 14, 1953 (Public Law 269, 83d Congress; 67 Stat. 580) - providing for wage credits for military service before July 1, 1955.
- Act of August 15, 1953 (Public Law 279, 83d Congress; 67 Stat. 587) - adding section 218(m) relating to services of employees in positions covered by Wisconsin retirement fund.
- Act of September 1, 1954 (Public Law 761, 83d Congress; 68 Stat. 1052). The Social Security Amendments of 1954.

Volume V 84th Congress

- Act of August 9, 1955 (Public Law 325, 84th Congress; 69 Stat. 621) - providing for wage credits for military service before April 1956; extending time for filing lump sum applications in certain cases.

Act of August 1, 1956 (Public Law 880, 84th Congress; 70 Stat. 807). The Social Security Amendments of 1956.
Act of August 1, 1956 (Public Law 881, 84th Congress; 70 Stat. 857). The Servicemen's and Veterans' Survivor Benefits Act.

Volume VI 85th Congress

Act of July 17, 1957 (Public Law 85-109, 85th Congress; 71 Stat. 308) - amending sec. 216(i) and sec. 224(e) of the Act.
Act of August 30, 1957 (Public Law 85-226, 85th Congress; 71 Stat. 511) - amending sec. 218(f), (k), and (p) of the Act.
Act of August 30, 1957 (Public Law 85-227, 85th Congress; 71 Stat. 512) - amending sec. 218(d)(6) of the Act.
Act of August 30, 1957 (Public Law 85-229, 85th Congress; 71 Stat. 513) - adding new paragraph (7) to sec. 218(d) of the Act.
Act of August 30, 1957 (Public Law 85-238, 85th Congress; 71 Stat. 518) - amending sec. 202(b), (c), (e)-(h), (p) and (t), and sec. 216(h) of the Act, and secs. 1(q) and 5(l) of the RRA.
Act of August 30, 1957 (Public Law 85-239, 85th Congress; 71 Stat. 521) - extending the time within which a minister can elect coverage and amending sec. 211(a)(7) of the Act.
Act of August 27, 1958 (Public Law 85-785, 85th Congress; 72 Stat. 938) - to provide coverage for certain employees of tax exempt organizations which failed to file waiver certificates.
Act of August 27, 1958 (Public Law 85-786, 85th Congress; 72 Stat. 938) - providing that the sec. 209(i) exception from wages does not apply to payments to State and local employees absent from work because of sickness.
Act of August 27, 1958 (Public Law 85-787, 85th Congress; 72 Stat. 939) - amending sec. 218(d)(6) by adding Massachusetts and Vermont and permitting a "second chance" to choose coverage in certain cases.
Act of August 28, 1958 (Public Law 85-798, 85th Congress; 72 Stat. 964) - providing for re-entitlement for certain widows - sec. 202(g); coverage for policemen and firemen working for interstate instrumentalities - sec. 218(k); and coverage of policemen and firemen in State of Washington - sec. 218(p).

- Act of August 28, 1958 (Public Law 85-840, 85th Congress; 72 Stat. 1013). The Social Security Amendments of 1958.
- Act of September 2, 1958 (Public Law 85-857, 85th Congress; 72 Stat. 1105) - interrelationship between title II of the Social Security Act and title 38 U.S.C. - Veterans Benefits.
- Act of September 6, 1958 (Public Law 85-927, 85th Congress; 72 Stat. 1778) - amending RRA and sec. 202(t) of the Social Security Act.

Volume VII 86th Congress, Part 1

- Act of June 25, 1959 (Public Law 86-70, 86th Congress; 73 Stat. 141). The Alaska Omnibus Act.
- Act of August 18, 1959 (Public Law 86-168, 86th Congress; 73 Stat. 384) - providing that the sec. 210(a)(6)(B) exclusion does not apply to service performed in the employ of a Federal land bank, a Federal intermediate credit bank or a bank for cooperatives.
- Act of September 16, 1959 (Public Law 86-284, 86th Congress; 73 Stat. 566) - amending sec. 104(f), Social Security Amendments of 1956 and sec. 218(p) and extending the time for modifying certain State agreements.
- Act of September 22, 1959 (Public Law 86-346, 86th Congress; 73 Stat. 621) - amending sec. 201(d) of the Act.
- Act of April 8, 1960 (Public Law 86-415, 86th Congress; 74 Stat. 32) - remuneration of Public Health Service Reserve Corp commissioned officers; waiver of benefits.
- Act of April 22, 1960 (Public Law 86-442, 86th Congress; 74 Stat. 81) - amending sec. 213(a)(2)(B) of the Act - quarters of coverage based on wages earned.
- Act of June 11, 1960 (Public Law 86-507, 86th Congress; 74 Stat. 200) - amending sec. 205(d) of the Act.
- Act of July 12, 1960 (Public Law 86-624, 86th Congress; 74 Stat. 411). The Hawaii Omnibus Act.

Volume VIII 86th Congress, Part 2

- Act of September 13, 1960 (Public Law 86-778, 86th Congress; 74 Stat. 924). The Social Security Amendments of 1960.

Volume IX 87th Congress

- Act of June 30, 1961 (Public Law 87-64, 87th Congress; 75 Stat. 131). The Social Security Amendments of 1961.
- Act of September 21, 1961 (Public Law 87-256, 87th Congress; 75 Stat. 527). The Mutual Educational and Cultural Exchange Act of 1961.
- Act of September 21, 1961 (Public Law 87-262, 87th Congress; 75 Stat. 542) - continuing the sec. 210(a)(6) exclusion of services of employees of Freedman's Hospital who transfer to Howard University.
- Act of September 22, 1961 (Public Law 87-293, 87th Congress; 75 Stat. 612). The Peace Corps Act.
- Act of October 5, 1961 (Public Law 87-397, 87th Congress; 75 Stat. 828) - permitting the use of social security account numbers as identifying numbers for income tax purposes.
- Act of October 24, 1962 (Public Law 87-878, 87th Congress; 76 Stat. 1202) - validating coverage of certain State and local employees in Arkansas and adding "Maine" in sec. 218(p) of the Act.

Volume X 88th Congress

- Act of February 26, 1964 (Public Law 88-272, 88th Congress; 78 Stat. 19). The Revenue Act of 1964.
- Act of July 2, 1964 (Public Law 88-350, 88th Congress; 78 Stat. 240) - extending the time within which teachers and other employees covered by the same retirement system in the State of Maine may be treated as being covered by separate retirement systems for purposes of the old-age, survivors, and disability insurance program.
- Act of July 23, 1964 (Public Law 88-382, 88th Congress; 78 Stat. 335) - permitting Nevada to divide its retirement systems into two parts for purposes of obtaining social security coverage under its Federal-State agreement.
- Act of August 20, 1964 (Public Law 88-452, 88th Congress; 78 Stat. 508). The Economic Opportunity Act of 1964.
- Act of October 13, 1964 (Public Law 88-650, 88th Congress; 78 Stat. 1075) - providing full retroactivity for disability determinations, extending the period within which ministers may elect coverage, validating certain wages reported, and making certain other changes.

Volume XI 89th Congress

Act of July 30, 1965 (Public Law 89-97, 89th Congress; 79 Stat. 286). The Social Security Amendments of 1965.

Act of March 15, 1966 (Public Law 89-368, 89th Congress; 80 Stat. 67). The Tax Adjustment Act of 1966 - providing benefits at age 72 for certain uninsured individuals.

Act of April 8, 1966 (Public Law 89-384, 89th Congress, 80 Stat. 99) - extending the initial enrollment period for supplementary medical insurance benefits.

Act of November 2, 1966 (Public Law 89-713, 89th Congress, 80 Stat. 1107) - relating to the reasonable cost for reimbursement of proprietary extended care facilities under Health Insurance for the Aged.

Volume XII 90th Congress

Act of September 30, 1967, to extend through March 1968 the first general enrollment period under part B of title XVIII of the Social Security Act (relating to supplementary medical insurance benefits for the aged), and for other purposes (Public Law 90-97, 90th Congress, H.R. 13026).

Act of January 2, 1968, to amend the Social Security Act to provide an increase in benefits under the old-age, survivors, and disability insurance system, to provide benefits for additional categories of individuals, to improve the public assistance program and programs relating to the welfare and health of children, and for other purposes (Public Law 90-248, 90th Congress, H.R. 12080). The Social Security Amendments of 1967.

Volume XIII 91st Congress

- Act of December 30, 1969 (Public Law 91-172, 91st Congress; 83 Stat. 737). Title X - Increase in Social Security Benefits.
- Act of December 30, 1969 (Public Law 91-173, 91st Congress; 83 Stat. 742). Federal Coal Mine Health and Safety Act of 1969.
- Act of July 6, 1970 (Public Law 91-306, 91st Congress; 84 Stat. 407). Miscellaneous OASDI Amendments.
- Act of January 11, 1971 (Public Law 91-669, 91st Congress; 84 Stat. 2038). Extension of provision for disregarding OASDI and railroad benefits in determining need for public assistance.
- Act of January 12, 1971 (Public Law 91-690, 91st Congress; 84 Stat. 2074). Modification of nursing service requirements.

Volume XIV 92nd Congress

- Act of March 17, 1971, (Public Law 92-5, 92nd Congress; 85 Stat. 5). Title LL - Amendments to the Social Security Act; Increase in Old-Age, Survivors, and Disability Insurance Benefits).
- Act of December 28, 1971 (Public Law 92-223, 92nd Congress; 85 Stat. 802). Lump-sum Death Payments Where Body Unavailable for Burial.
- Act of May 19, 1972 (Public Law 92-303, 92nd Congress; 86 Stat. 150). Black Lung Benefits Act of 1972.
- Act of July 1, 1972 (Public Law 92-336, 92nd Congress; 86 Stat. 406). Title II - Amendments to the Social Security Program.
- Act of October 30, 1972 (Public Law 92-603, 92nd Congress; 86 Stat 1329). Social Security Amendments of 1972.

Volume XV 92nd Congress

- Report of the Committee on Finance, United States Senate, to accompany H.R. 1, Social Security Amendments of 1972, Senate Report No. 92-1230.

Volume XVI 93d Congress

- Message from the President of the United States transmitting
A Plan For Comprehensive Health Insurance, House of
Representatives, Document No. 93-211.
- Message from the President of the United States transmitting
Proposals For Improving Health Care, House of Representatives,
Document No. 93-217.
- Third Annual Report on Part B of Title IV of the Federal Coal
Mine Health and Safety Act of 1969, Committee Print,
Committee on Education and Labor, U.S. House of Representatives.
- Public Law 93-58 (H.R. 7357), July 6, 1973, An Act to extend
kidney disease medicare coverage to railroad employees,
their spouses, and their dependent children.
- Report of the Committee on Labor and Public Welfare, to
accompany H.R. 7357, Senate Report No. 93-215.
- Report of the Committee on Interstate and Foreign Commerce,
to accompany H.R. 7357, House of Representatives Report
No. 93-222.
- Public Law 93-66 (H.R. 7445), July 9, 1973, An Act to increase
social security and supplemental security income benefits,
and other miscellaneous amendments to the Social Security
Act.
- Public Law 93-233 (H.R. 11333), December 31, 1973, An Act to
provide an increase in social security and supplemental
security income benefits.
- Report of the Committee on Ways and Means to accompany
H.R. 11333, House of Representatives Report No. 93-627.
- Public Law 93-256 (H.R. 13025), March 28, 1974, An Act to
increase the period during which benefits may be paid
under title XVI on the basis of presumptive disability.
- Report of the Committee on Finance, to accompany H.R. 13025,
Senate Report No. 93-735.
- Report of the Committee on Ways and Means, to accompany
H.R. 13025, House of Representatives Report No. 93-871.
- Public Law 93-335 (H.R. 15124), July 8, 1974, An Act
extending the eligibility of supplemental security
income recipients for food stamps.
- Report of the Committee on Ways and Means, to accompany
H.R. 15124, House of Representatives Report No. 93-1081.
- Public Law 93-368 (H.R. 8217), August 7, 1974, Miscellaneous
amendments to the Social Security Act.
- Public Law 93-406 (H.R. 2), September 2, 1974, Employee
Retirement Income Security Act of 1974.

Conference Report, to accompany H.R. 2, Senate Report
No. 93-1090, Excerpts from.
Public Law 93-445 (H.R. 15301), October 16, 1974, The
Railroad Retirement Act of 1974.
Public Law 93-484 (H.R. 11452), October 26, 1974, Health
insurance for the aged.
Public Law 93-484 (H.R. 13631), October 26, 1974,
Miscellaneous amendments to the Social Security Act.
Conference Report, to accompany H.R. 13631, House of
Representatives Report No. 93-1407.
Public Law 93-490 (H.R. 6642), October 26, 1974, An Act
requiring a study of combined annual reporting for
social security and income tax purposes.
Report of the Committee on Finance, to accompany H.R. 6642,
Senate Report No. 93-986.
Conference Report, to accompany H.R. 6642, House of
Representatives Report No. 93-1400.
Public Law 93-647 (H.R. 17045), January 4, 1975, The Act
requiring a Parent Locator Service, Excerpts from.
Report of the Committee on Finance, to accompany
H.R. 17045, Senate Report No. 93-1356, Excerpts from.

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